

Protected Trust Deed

offering debtors an alternative to bankruptcy



A Protected Trust Deed is a legal process available, only to residents in Scotland, by which a person conveys his or her estate to a Licensed Insolvency Practitioner.

It offers debtors an alternative to bankruptcy. In order for the Trust Deed to become Protected, the Trustee is required to publish a notice in the Edinburgh Gazette, which is subscribed to mainly by professional organisations. Within five days of the publication the Trustee must send the following information to your creditors:

- A copy of the Trust Deed
- A copy of the published notice in the Edinburgh Gazette
- A schedule of your assets and liabilities
- A schedule of your income and expenditure

It is normal for us to intimate the likely dividend to your creditors at this stage to allow them to make an informed judgment as to whether they should agree to your Trust Deed becoming protected. Creditors have five weeks from the date of publication in the Edinburgh Gazette to object to the Trust Deed. Objections in writing are required from a majority in number or not less than one third in value of the creditors, failing which the Trust Deed proceeds as a Protected Trust Deed ("PTD").

If the Trust Deed fails to become Protected it is likely that a Petition for your Sequestration will be recommended as a Trust Deed on its own does not cut through diligence such as wage arrestments.

How long does it last?

A Trust Deed normally lasts for a period of 3 years as they are generally funded by 36 monthly contributions from future income. Should you default on 3 consecutive contributions we are bound to notify creditors, which could lead to your Sequestration. It is important that you keep your Trustee informed in writing of changes in circumstances.

However the period can be shortened or lengthened depending on circumstances and the anticipated dividend. It is this flexibility that makes them effective as they can cope with unforeseen changes in circumstances. At the end of the Protected Trust Deed a dividend is paid to your creditors in return for them discharging you from the balance of the debt due. Within 28 days of the distribution being paid a Form 11 is registered with the Accountant in Bankruptcy closing the case.

Will I lose my home?

Not necessarily, although it rather depends on how much equity you have. The Trustee might suggest that you sell and move to a smaller home to release money to your creditors. You could also look into remortgaging possibilities with a financial advisor as a means of releasing any equity in your home. Another alternative which may be explored is the Mortgage to Rent Scheme.

The Trustee may also agree to sell your share in the home to your spouse or another third party.

We recommend that you establish the equity figure before signing a Trust Deed as property prices have increased significantly in the past few years.

Will I lose my endowment or insurance policies?

It is likely that you will be asked to cash in endowment policies and other savings policies. You will be given the opportunity to find a third party to purchase the Trustees interest in the policies at the surrender value.

Will I lose my car?

If it is required for work, unlikely. It should however not be an expensive car. The Trustee will be able to advise you what is sensible in the circumstances.

Will I lose household possessions?

Highly unlikely. If you however have expensive luxury items or antiques you should disclose them. The Trustee will be able to advise you what is sensible in the circumstances.

How much does it cost?

Your Trustee's fees and expenses are met from the funds received in the Trust Deed and intimated to creditors and you prior to being drawn by the Trustee.

Can I have a bank account?

You are entitled to hold a bank account. It is recommended that you do not borrow further sums during the course of your Trust Deed as you should be learning how to run a balanced budget for the future.

What happens to my debts?

Certain debts such as Court Fines will still have to be paid. The remaining creditors will write off the balances due after receiving a final dividend from the Protected Trust Deed.

Do I qualify for a Trust Deed?

You need to be resident in Scotland. Be able to accumulate a fund with the Trustee sufficient enough to pay a dividend to your creditor, after taking into account Trustees fees and expenses.

People who have signed a Trust Deed or been sequestrated previously may not qualify. Our staff will advise you depending on your circumstances.

To download a copy of the Account in Bankruptcy guide to Trust Deeds please [click here](#).

What do I do next?

If you would like to know more about Trust Deeds please contact us to arrange a free, no obligation consultation. We do not charge for consultations.

At the meeting you will be advised of the impact of signing a Trust Deed to you as an individual.

You should collate a list of all your assets and creditors to assist the advisor. Full disclosure is required to enable you to make an informed decision.