



WHAT IS A PROTECTED TRUST DEED?



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A Protected Trust Deed is the ideal solution for many individuals with debt problems.

A Protected Trust Deed is the only debt solution available in Scotland that offers flexibility, affordability and protection from creditors, coupled with the freezing of ongoing interest.

A Trust Deed is less formal and less restrictive than sequestration (bankruptcy), but is governed by the same legislation. It therefore can also offer debt forgiveness, i.e. an element of the due debt is written off by the lenders.

To achieve this, the Trustee appointed in the Deed must be a licensed insolvency practitioner. This provides the comfort that the process is being handled by an experienced professional, who is subject to tight regulation.

Who can sign a Trust Deed?

Any individual or partnership based in Scotland with personal or business debts can sign a Trust Deed.

How the process works

When you first contact WRI Associates we will discuss your financial circumstances with you and explain the options available to you. If you decide that a Protected Trust Deed is the right solution for you we will help to frame a proposal to be put to your creditors (the people you owe money to). Your obligations and any implications of the Trust Deed will be explained in detail. To provide you with added comfort we will confirm our advice in writing and provide you with a copy of the proposal documentation. **ALL OF THIS WILL BE DONE BEFORE YOU COMMIT TO GRANTING THE TRUST DEED.**

If you are happy to proceed with the Trust Deed your Trustee will issue the proposal to your creditors. Unless objections are received from creditors who are owed more than one third of your total debt, or from a majority of your creditors, the Deed will become "Protected".

When the Trust Deed is protected all of your creditors are bound by the terms of the proposal and can take no further action against you.

The Trust Deed will be in force for an agreed period, generally four years. During that period the money available will be paid to your creditors. At the end of the Trust Deed, if the proposal has been adhered to, any remaining debt due to your creditors will be written off. You will not be required to make any further payment in respect of debts incurred prior to signing the Trust Deed.

Building a Proposal

Your proposal to your creditors will be tailored to your own circumstances. The proposal can be based on you making regular payments to the Trustee, or can be based on a lump sum being received from assets or can be a combination of the two.

Our highly experienced staff will help to ensure that your proposal is affordable to you and will meet with your creditor's expectations.



The effects of granting a Trust Deed

Over the course of your Trust Deed your Trustee will collect your payments and assist in realising any money to be paid in respect of assets (see below).

You must be aware that by granting a Trust Deed you transfer all of your significant assets (normal household items are excluded) to your Trustee. How this affects you will depend on your individual circumstances. Assets which are likely to be included in the Trust Deed are any equity in your home, cars, investments or any other significant assets. This is explained in more detail below.

Your home

The only interest the Trustee is likely to take in your home is in respect of your share in any “equity” available.

A valuation of the property will be carried out and the level of any outstanding mortgage or secured loans established. The difference between the value of the property and the outstanding debts secured on the property is the equity. Arrangements will be made for the equity to be realised during the period of the Trust Deed. This can be done by re-mortgaging, payment being made from a third party (often a family member) or additional payments being made at the end of the Trust Deed term.

Car

Again, the Trustee’s interest will only be in any equity which exists in the car. If the car is subject to hire purchase, only the difference between the value of the car and the outstanding hire purchase will be required to be contributed to the Trust Deed. If your car is needed to travel to and from work, you will normally be allowed to retain the car and to continue to make payments to the hire purchase company. If your car has a value of less than £3,000 the Trustee will not seek any payment from you.

Any other assets

How the Trustee deals with any other assets will depend on the value of the assets, their nature and whether they are required for any particular purpose. Again, our experienced professional staff will help to find the best way of dealing with any such assets.

Fees and costs

The proposal put to creditors will include an indication of the likely costs of the Trust Deed process. These costs are paid from the “Trust Deed estate” and will be deducted prior to any payment being made to creditors.

You therefore do not have to meet any additional costs. When you agree the proposal you can be clear on what you are expected to pay.

How long does a Trust Deed last?

A Trust Deed is usually based on a four year period however it can be flexible and, in certain circumstances, can be shortened or extended in order to suit your own personal circumstances and to help ensure your creditors will accept the proposal.



In summary the advantages of signing a Trust Deed are:

You can agree the proposal which will be put to your creditors.

The proposal will be tailored to your own circumstances

All correspondence from creditors will be dealt with by the Trustee

Pressure from creditors is removed

A Trust Deed is less costly than sequestration, and should result in a better outcome for your creditors.

At the end of the Trust Deed period you will be free from the burden of debt and able to plan for the future.

There are, however, some potential disadvantages:

Certain court actions taken by creditors prior to signing the Trust Deed may continue to be effective. It is therefore important to fully disclose any actions that may already have been taken against you in order that the appropriate arrangements can be made for these to be released if possible. At worst, the effects of these procedures need to be taken into account when framing the proposal for the Trust Deed.

If you fail to adhere to the terms of the Trust Deed, your home and other assets may be at risk. Our staff will fully explain the implications of the Trust Deed to you to ensure that the proposal is affordable, sustainable and suitable to your personal circumstances.

If you are self-employed, there may be some restrictions on your ability to trade. Alternative arrangements may, however, be available to allow trading to continue to generate future income.

Why WRI Associates?

Lead by our highly experienced managing director, Ian Wright, our focus is to deliver sustainable solutions that solve your financial difficulties once and for all, allow you to regulate your finances and plan for the future.

Ian has acted a Trustee in more than two thousand Trust Deeds and our highly experienced team have helped deliver successful solutions for many years.

We'd be delighted to help you. Please contact us at:

WRI Associates Ltd

3rd Floor, Turnberry House, 175 West George Street, Glasgow, G2 2LB

Tel; 0141 285 0919 Fax 0141 221 7904

or

Email: debtadvisedesk@wriassociates.co.uk

or visit

www.wriassociates.co.uk

or

www.debtadvisedesk.co.uk