

These brief notes are for
general information only.

Advice on all specific aspects
of trust deeds will
be provided on request.

Freephone Ritson Young on
0800 634 3482
and ask for Andrew Bays

The logo for Ritson Young, featuring the company name in a blue serif font. The 'R' in 'Ritson' is larger and partially overlaps the 'Y' in 'Young'. The text is set against a white square background.

Chartered Accountants
Licensed Insolvency Practitioner

William L. Young B.A., C.A., F.C.C.A., R3



IN DEBT?

We can make a difference

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Chartered Accountants

A guide to
PROTECTED TRUST DEEDS



Sequestration, the Scottish legal term for bankruptcy, is not the only solution for people with serious debt problems. If you have assets and/or available income, a Protected Trust Deed may be an option that would help or alleviate your debt problems.

What is a trust deed?

It is a legal agreement in which you transfer what you own (your assets) to a trustee who will sell them to try and pay off your debts. Assets that would not be sold include most household items and a modestly valued car if you require it for work.

Is it possible for me to sign a trust deed even if I have no assets?

Yes, if you are prepared to pay a proportion of your earnings to the trustee.

Who pays for the cost of setting up and administering the trust deed?

All costs must be met from the estate transferred by the trust deed or from your earnings.

How much must I owe before a trust deed can be signed?

There is no minimum or maximum amount of debt.

Can anyone be appointed as the trustee?

No, the trustee must be a qualified insolvency practitioner.

How does the trust deed work?

The trustee will assess your situation and calculate what you can afford to pay. He will then write to your creditors informing them of your financial position with an estimate of how much they can expect to be paid (for example 50p in the £). The creditors then consider the proposal. The trust deed will become protected after five weeks unless a majority in number, or one-third in value of your creditors object to the proposals.

What happens after the trust deed becomes protected?

Once the trust deed becomes protected no creditor can raise a court action against you for recovery of debt, providing they were informed of the trust deed and that the debt was incurred before the trust deed was signed.

What happens if a majority of my creditors object to my trust deed becoming protected?

Provided you owe at least £1500 and have not been sequestrated in the previous 5 years, the rejection by the creditors would be sufficient grounds for you to petition for your own sequestration.

What further obligations do I have to the trustee or to my creditors?

You must co-operate with the trustee and comply with the terms, of the trust deed. The trustee will deal with your creditors. You should direct all correspondence and callers to the trustee.

What can happen if I fail to co-operate with my trustee?

The trustee can petition for your sequestration if he considers that would be in the better interests of your creditors.

Can the trustee sell my house?

Specific advice will be given once your circumstances are known but the trustee can sell all property which has been transferred to him by the trust deed. All options will be considered including whether it is possible for your interest to be purchased by your spouse or a member of your family, only as a last resort will the trustee sell the property. If your house is jointly owned or if it is a family home, the trustee will need the consent of the co-owner or anyone else who has occupancy rights in the house before taking this step.

Will the signing of a trust deed result in my being "blacklisted" by credit reference agencies?

Yes.

Am I prohibited from obtaining credit in the future?

No, but it would obviously be prudent to consider whether your circumstances can support credit commitments.

Will my neighbours find out?

The trust deed is advertised in the Edinburgh Gazette, an official publication and cannot be bought at your local

newsagent. Confidentiality is a high priority within Ritson Young and only your creditors and others with an interest will receive direct notification.

When will I be discharged from my debts?

Provision for your discharge is included in the terms of the trust deed and is normally three years after the trust deed is signed and is binding on all of your creditors.

When I am discharged, do I get my property back?

No. Once you have transferred assets to your trustee, it becomes his duty in law to sell them for the benefit of your creditors. The trust deed continues to operate after your own discharge so long as there are assets for the trustee to manage or realise.

Why Ritson Young?

Ritson Young is a local firm which understands the specific problems of living in Grampian and the Highlands. It can be a frightening experience being caught in an increasing spiral of debt. We recognise that each person has individual problems and can advise you face to face, enabling you to make a decision about the best way forward.

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