

CREDIT UNION DEBTS IN PROTECTED TRUST DEEDS
SUPPLEMENTARY CONSULTATION ON DRAFT REGULATIONS

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CONSULTATION QUESTIONNAIRE

Credit Union Debts in Protected Trust Deeds

The deadline for responses is **25 June 2007**

Your details

Neil Geddes

Debt Advice Manager

The City of Edinburgh Council,

Services for the Community

Community Safety

Trading Standards

Debt Advice Unit

The Advice Shop 85/87 South Bridge

EH1 1HN

For the purpose of analysing responses, it would be helpful if you would also indicate the capacity in which you are completing this questionnaire, please tick as appropriate.

Advice Sector

Legal Body

Business

Professional Body

Individual Statutory Body

Insolvency Practitioner

Other (Please Specify)

Questions for Consultation

1a Do you think that cancelling debt in a Protected Trust Deed has a particularly harsh impact on Credit Unions?

Yes No

1b If yes, what evidence do you have to support your comments?

1c Do you think that Protected Trust Deeds should give special protection to Credit Unions?

~~Yes~~ **No**

2a Do you think that cancelling debt in a Protected Trust Deed has a particularly harsh impact on any other creditor?

~~Yes~~ **No**

2b If yes, what other creditors are affected?

2c Do you think that Protected Trust Deeds should give special protection to any other type of creditor and which ones?

No, once you go down that road where do you stop;

- **small business's with a turnover less than 50,000**
- **charities,**
- **community companies,**
- **other co operatives,**
- **thrift clubs,**
- **Christmas clubs,**
- **social clubs.**

The list is potentially endless.

3a Do you think that introducing special protection for credit unions (or another type of creditor) would unduly harm the interests of the rest of the creditors?

Yes ~~No~~

3b If yes, what evidence do you have to support your comments?

Taking account of the compound interest charged by credit unions, at the standard rate of 1% per month on the balance. In every case the credit union balance at the outset would inflate by 42% by the end of the discharge period. From there on in interest would be chargeable until the debt was paid. The mere fact of the exception harms the interest of other creditors.

4a Which of the following options do you think would be the most appropriate?

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Option 1 (Do Nothing) –The intended reform of Protected Trust Deeds will be sufficient to protect the interests of all creditors, including Credit Unions. ✓

Option 2 (Debts not Cancelled) - Debts due to Credit Unions should not be cancelled by Protected Trust Deeds.

4b Why do you think this option is most appropriate?

It creates no new preference or special treatment for any class of creditor.

4c Do you have any other comments on these options that we should consider?

It seems astonishing that Credit Unions should seek, or be given such an exemption. The main reason that any particular credit union would feature significantly in protected trust deeds is, likely to be bad lending decisions.

In our own cases between 1st of April 2004 till 31st March 2007, credit union debt features in only 11 accounts out of 4680 dealt with. In regard to outcomes:

- **1 went to a protected trust deed,**
- **2 were sequestrated**
- **5 had payment offers**
- **2 are as yet undetermined**

It is extremely unlikely that any well run community credit unions would be subject to much trust deed activity. Workplace credit unions may, be marketing in areas where it is more likely. Again however, if they have sensible lending policies, then they are no more likely (on a proportional basis) than any other creditor, to be subject to a protected trust deed.

The other problem with this approach is it will merely serve to transfer the problem from trust deed to sequestration. From the credit unions point of view little will in effect have been achieved

There is also the question of this type of exemption for credit unions being, unique to Scotland. No other credit union, in any other jurisdiction in the world has obtained this type of exemption. Credit unions in England for example are subject to the IVA bankruptcy process, which is equivalent to trust deeds in Scotland. There has been no similar legislation there, or in any other part of Britain and Ireland.

Finally the missing question from this consultation what effect will it have on the debtor? Simply this, debtors with credit union debt will be discriminated from debtors without credit union debt. People without credit union debt will have a process, fair to all and finishing on discharge. People with credit union debt will not.

RESPONDENT INFORMATION FORM:

Credit Union Debts in Protected Trust Deeds

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Neil Geddes
Debt Advice Manager

Postal Address:

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