SCOTTISH STATUTORY INSTRUMENTS

2004 No. 470

DEBT

DILIGENCE

The Debt Arrangement Scheme (Scotland) Amendment Regulations 2004

Made - - - -	*1st November 2004*
Laid before the Scottish Parliament - - - -	*2nd November 2004*
Coming into force - -	*14th November 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 2(3) and (4), 4(5), 5(4), 6(1), 7 and 62(2) of the Debt Arrangement and Attachment (Scotland) Act 2002(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Debt Arrangement Scheme (Scotland) Amendment Regulations 2004 and shall come into force on 14th November 2004.

Amendment of the Debt Arrangement Scheme (Scotland) Regulations 2004

2. The Debt Arrangement Scheme (Scotland) Regulations 2004(**2**) shall be amended in accordance with these Regulations.

3. In regulation 1, for "the fourteenth day after the day on which they are made" substitute "30th November 2004".

4. In regulation 5(1), after "shall be" insert "payable in advance and shall be".

5.—(1) In regulation 7(2), at the end insert–

"for any reason other than the resignation, or revocation or suspension of approval, of the money adviser".

(1) For regulation 7(4), substitute–

(**1**) 2002 asp 17. Section 9(1) contains a definition of "Prescribed" relevant to the exercise of the statutory power under which these Regulations are made.

(**2**) S.S.I. 2004/468.

"(4) Where a money adviser has ceased to act by reason of the resignation or suspension of approval of that money adviser, that money adviser shall assist the debtor to appoint a replacement money adviser.".

6. After regulation 9(3), insert–

"(4) The DAS Administrator shall provide written notice to a debtor of the suspension or revocation of the approval of the money adviser to that debtor.".

7. In regulation 13(1), for "form 2" substitute "writing".

8. In regulation 16(2), for "5%" substitute "10%".

9.—(1) In regulation 29(2)(e)(ii), omit "and".

(2) At the end of regulation 29(2)(f), insert–

";

(g) make all payments in respect of credit obtained under regulation 35(1)(b)(iv), (v) and (vi) as they fall due; and

(h) give all notices and intimations which require to be given by a debtor under these Regulations".

10. In regulation 30(3)(a), for "home" in the second place where it occurs, substitute "sole or main residence".

11. In regulation 35–

(a) after paragraph (1)(a), insert–

"(aa) subject to section 2A of the Act, the approval shall have the effect of a recall at the time specified in regulation 28(2) of any attachment of the debtor's corporeal moveable property, and the DAS administrator shall send notice of recall in form 7(a) to each party with possession of the property attached;";

(b) in paragraph (1)(b), head (i) shall be omitted;

(c) in paragraph (2), for "form 5" substitute "form 5(a)"; and

(d) in paragraph (5)(a)(ii)–

(i) for "40" substitute "40A(**3**)"; and

(ii) after "1991," insert "in".

12. In regulation 47, for "form 12" substitute "writing".

13. In regulation 48(1)(a), for "form 12" substitute "writing".

14. In regulation 50, for paragraph (6) substitute–

"(6) An appeal–

(a) to the sheriff under paragraphs (1), (2) or (3) shall be by summary application;

(b) to the sheriff principal under paragraphs (4) or (5) shall be by note of appeal in accordance with rule 31.4 of the Ordinary Cause Rules set out in the First Schedule to the Sheriff Courts (Scotland) Act 1907(**4**);

(c) shall be lodged within 14 days after the date of intimation to the appellant of the determination appealed against.".

15. In Schedule 1–

(**3**) Section 40A of the Child Support Act 1991 (c. 48) was inserted by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 17(2).

(**4**) 1907 c. 51; rule 31.4 of the Ordinary Cause Rules was inserted by S.I.1996/2445.

(a) in the Arrangement of Forms–

(i) the entry for form 2 shall be omitted;

(ii) in the entry for form 4, for "Notification to creditor of application for approval of a debt payment programme" substitute "Proposal to creditor for a debt payment programme";

(iii) after the entry for form 5, insert–

(a) Notification to creditor of approval of a debt payment programme";

(iv) after the entry for form 7, insert–

(a) Notice of recall of an attachment"; and

(v) the entry for form 12 shall be omitted;

(b) Form 2 shall be omitted;

(c) For form 3 (Application for approval of a debt payment programme) substitute the form set out in Schedule 1 to these Regulations;

(d) For form 4 (Notification to creditor of application for approval of a debt payment programme) substitute the form set out in Schedule 2 to these Regulations;

(e) After form 5, insert the form 5(a) set out in Schedule 3 to these Regulations;

(f) After form 7, insert the form 7(a) set out in Schedule 4 to these Regulations;

(g) For form 8 (Application for variation of a debt payment programme) substitute the form set out in Schedule 5 to these Regulations;

(h) For form 10 (Application for revocation of a debt payment programme) substitute the form set out in Schedule 6 to these Regulations; and

(i) Form 12 shall be omitted.

16. In Schedule 5, paragraph 6 shall be omitted.

St Andrew's House, Edinburgh
1st November 2004

HUGH HENRY
Authorised to sign by the Scottish Ministers

SCHEDULE 1 Regulation 15 (c)

The Debt Arrangement Scheme (Scotland) Regulations 2004
Regulation 20(2)

FORM 3

FORM 3

APPLICATION FOR APPROVAL OF A DEBT PAYMENT PROGRAMME

SECTION 1

1 Money adviser case number

Details of debtor

2 Title (Mr, Mrs, Miss, Ms, etc)

Surname

First name(s)

All other names you are or have been known by

3 Date of birth

4 Home address

Postcode

E-mail address

Home phone number

5 Have you lived at this address for more than 2 months? Yes No

6 Business name (if applicable)

Business address (if applicable)

Postcode

Details of money adviser

7 Surname

First name

Unique identification number

You must complete questions 8 to 16

8 Has the debtor previously applied for or had a debt payment programme or other debt payment plan? Yes ☐ No ☐

If you answer 'yes', please give details (and previous DAS case number(s) if applicable)

9 Has the debtor 2 or more debts? Yes ☐ No ☐

10 Does the debtor have a current trust deed or protected trust deed? Yes ☐ No ☐

11 Has the debtor's estate been sequestrated under the Bankruptcy (Scotland) Act 1985 and the debtor not been discharged? Yes ☐ No ☐

12 Does the debtor have a Bankruptcy Order made under the Insolvency Act 1986? Yes ☐ No ☐

13 Is the debtor subject to a Bankruptcy Restrictions Order under the Insolvency Act 1986? Yes ☐ No ☐

14 Is payment of any of the debtor's debts being made under a pre-existing conjoined arrestment order? Yes ☐ No ☐

15 Has a creditor attempted to enforce a debt due by the debtor that is not included in a pre-existing conjoined arrestment order? Yes ☐ No ☐

16 Does the debtor have any other type of arrestment order? Yes ☐ No ☐

If you answered 'yes' to question 16 complete questions 17-18. If 'no' go to section 2.

17 Is the arrestment in question 16 an earnings arrestment? Yes ☐ No ☐

Please complete details of earnings arrestment

Employer

Business address

Postcode

Employee payroll number