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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 141**

**The Debt Arrangement Scheme (Scotland) Regulations 2011**

**PART 2**

**MONEY ADVISERS**

**Functions and duty of a money adviser**

**12.**—(1) It is a function of a money adviser to—

- (a) provide money advice to a debtor;
- (b) liaise with creditors on behalf of a debtor;
- (c) assist a debtor with, and advise on an application for approval, variation or revocation of a debt payment programme;
- (d) prepare and submit on behalf of a debtor an application under these Regulations;
- (e) provide, as required by the DAS Administrator, evidence of or information about the participation of a debtor in a debt payment programme (including the debtor's consent to any application for approval, variation or revocation in relation to which the adviser provided money advice); and
- (f) act as a lay representative in a court, where the adviser has accepted instructions by a debtor to act.

(2) A money adviser must not charge a fee to a debtor for the adviser's services, unless the adviser has informed the debtor—

- (a) that money advice is available without any fee or payment being due by the debtor ("free money advice");
- (b) of the name of—
  - (i) any adviser (or all, if more than one) providing free money advice within a 10 kilometre radius of the debtor's usual place of residence; or
  - (ii) the nearest adviser providing free money advice to the debtor's place of residence, where there is no adviser within a 10 kilometre radius of the debtor's usual place of residence,

and the debtor has agreed in writing to pay a fee.

(3) Where a money adviser charges any fee to a debtor ("a continuing money adviser") it is also a function of that adviser following the submission of an application under these Regulations—

- (a) to review a debt payment programme in every twelfth month of operation; and
- (b) as soon as reasonably practicable to provide written notice to the DAS Administrator of—
  - (i) any appointment or resignation of the adviser;
  - (ii) on any resignation, why the money adviser ceased to act; and
  - (iii) any change of the debtor's address.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (4) Where there is no continuing money adviser for a debt payment programme under paragraph (3), the DAS Administrator—
- (a) must in every twelfth month of the operation of the programme, invite the debtor to provide a statement of the debtor's current financial circumstances; and
  - (b) may, on receipt, notify the debtor that the debtor may wish to take the advice of a money adviser on a review of the programme.
- (5) A money adviser must have regard to guidance issued by the DAS Administrator when carrying out a function of an adviser.