

2004 No. 470

DEBT

DILIGENCE

**The Debt Arrangement Scheme (Scotland) Amendment
Regulations 2004**

<i>Made</i> - - - -	<i>1st November 2004</i>
<i>Laid before the Scottish Parliament</i>	<i>2nd November 2004</i>
<i>Coming into force</i> - -	<i>14th November 2004</i>

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(a) 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(b) 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”.

(2) For regulation 7(4), substitute—

“(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”.

(a) 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.

(b) S.S.I. 2004/468.

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(a)”; 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(b);

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

15. In Schedule 1—

(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—

“5(a) Notification to creditor of approval of a debt payment programme”;

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

(a) 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).

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

- “7(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

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

Date of arrestment

18 Is the arrestment in Q16 any other type?

Yes No

Please complete details of arrestment

Name of arrestee

Address of arrestee

Postcode

Sort code

- -

Account name (if applicable)

Account number (if applicable)

Date of arrestment

Description of property (if applicable)

If you need to give any other information on arrestments, please use the any other relevant information box in section 5

SECTION 2

Proposed payment details

19 Name of approved distributor

20 Repayment option

Equal

Pro rata

21 Payment method

Direct debit

(Select appropriate box with a X)

Standing order

Cheque

Postal order

Paypoint

Other (eg smart card - please specify)

Payment mandate

If you have selected 'payment mandate', please give the employer's details below

Name of company or firm

Surname (if appropriate)

First name (if appropriate)

Business address

Postcode

Business phone number

Business e-mail address

Please also provide the following details

Employee NI number

Employee payroll number

Payment instalment frequency (select as appropriate)

Weekly

Fortnightly

Monthly

4 Weekly

22 **Total debt**

£

p

Amount offered per instalment

£

p

Amount of final instalment

£

p

Number of instalments

23 **Breakdown of debts and payments**

Creditor's name, address
(including postcode)

Amount owed

Payment offer
(per instalment)

Amount of final
instalment

% of
total
debt

a

<input type="text"/>	£	<input type="text"/>	p	£	<input type="text"/>	p	£	<input type="text"/>	p	<input type="text"/>
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Type of debt

Has this creditor consented? Yes No

Account in the name of.

Account number

Account sort code

 - - b £ p £ p £ p Type of debt Has this creditor consented? Yes No

Account in the name of.

Account number

Account sort code

 - - c £ p £ p £ p Type of debt Has this creditor consented? Yes No

Account in the name of.

Account number

Account sort code

 - - d £ p £ p £ p Type of debt Has this creditor consented? Yes No

Account in the name of.

Account number

Account sort code

 - -

e		£		p	£		p	£		p	

Type of debt

Has this creditor consented? Yes No

Account in the name of.

Account number

Account sort code - -

f		£		p	£		p	£		p	

Type of debt

Has this creditor consented? Yes No

Account in the name of.

Account number

Account sort code - -

Do you need to list any more creditors? Yes No (If 'yes', please use continuation sheet)

SECTION 3

Discretionary conditions

- 24 The debtor will realise and distribute among the creditors the value of an asset (other than an exempted asset). Yes No

If you have answered 'yes', please give details

- 25 The debtor will sign and deliver a payment mandate to the employer. Yes No

- 26 The debtor will seek agreement from a creditor to pay a continuing Yes No

liability.

- 27 The debtor will complete and submit, when due, a tax or duty return or declaration. Yes No
- 28 The debtor will maintain an emergency fund in accordance with section 30, paragraph 4. Yes No
- 29 The debtor will be bound by any other reasonable condition intended to secure completion of the programme. Yes No

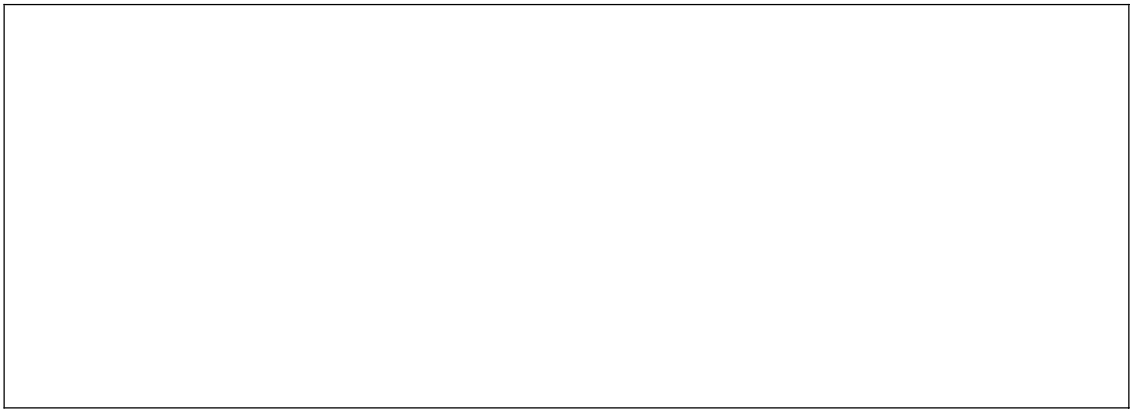
If you have answered 'yes', please give details

SECTION 4

Creditors' consent and objection

- 30 Has every creditor of the debtor consented to this application? Yes No
- (If the answer is 'yes', go to section 5, and if 'no' to question 31)*
- 31 Is the amount owed by the debtor to any single non-consenting creditor more than 50% of the total debt in the programme? Yes No
- 32 Is the amount due to the creditors refusing to consent more than 60% of the total debt in the programme? Yes No
- 33 Have any of the creditors objected on the grounds that they consider that the debtor should be sequestrated? Yes No
- 34 Have any of the creditors objected on the grounds that they consider that the debtor is in possession of heritable property with substantial unsecured value? Yes No

*If the answer is 'yes' to **either** question 33 or 34, please give full details*



SECTION 5

35 Please give us any other relevant information

Signature of debtor

36 I confirm that, to the best of my knowledge, the information contained on this form is complete and accurate.

I apply for approval of the debt payment programme as set out in this application

Signature _____ Date

Declaration by money adviser

37 I confirm that I have given the debtor money advice for the application they are seeking in accordance with section 3(1) of the Debt Arrangement and Attachment Act 2002

Signature _____ Date

SECTION 6

We would be grateful if you could take the time to provide us with the following information for research purposes:

38 Gender Male Female

39 To which of these ethnic groups do you consider you belong?

40 Do you have any long-term illness, health problems or disability which limits your daily activities or the work you can do? Yes No

41 Which of the categories below best describes your current employment situation?

42 Would you be willing to be contacted about taking part in future research on how the Debt Arrangement Scheme is working? Yes No

SCHEDULE 2

Regulation 15(d)

The Debt Arrangement Scheme (Scotland) Regulations 2004

Regulation 22(2)

FORM 4

PROPOSAL TO CREDITOR FOR A DEBT PAYMENT PROGRAMME

1 Details of creditor

Name of company or firm

(or, if appropriate)

Surname

First name

Other names

2 Address

Postcode

3 Details of applicant for approval of debt payment programme

Surname

First name

Other names

4 Date of birth

5 Home address

Postcode

6 Business name *(if applicable)*

Business address *(if applicable)*

Postcode

7 Details of money adviser for applicant

Surname

First name

8 Money adviser case reference

9 Name of organisation

Business address

Postcode

Business phone number

Email address

10 Debt due to creditor

Description of debt <i>(include creditor account or reference number)</i>	Amount owed	Interest, charges & expenses	Total amount due	Period for which debt due
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

(Continue to list all debts due to the creditor, if more than one)

Payment offer £ p

(Specify amount offered in respect of each debt, if more than one)

Amount of final payment £ p

Payment frequency *(select as appropriate)*

Weekly Fortnightly Monthly 4 Weekly

Number of instalments to be paid under proposed programme

11 Any further information

12 Payments distributor details

Name of payments distributor

13 You are requested to consent to payment of the debt(s) due to you set out in section 10 as stated in that section

Signature

Name

Date

Important information for creditors

A fair and reasonable debt payment programme will be approved under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002, and the Debt Arrangement Scheme (Scotland) Regulations 2004. If approved, the debt payment programme will protect the applicant from enforcement action, or from sequestration, by you. You should seek legal advice before responding to this notification.

You do not need to consent to the payment offer by the applicant. You are also entitled to object to the debt payment programme. The grounds of objection are that you consider that the applicant should be sequestrated, or is in possession of heritable property with a substantial unsecured value.

If you wish to refuse consent, or to object, then you must contact the money adviser stated in this Notification within 21 days of the date of this notification. If you do not contact the money adviser then you will be deemed to consent to the proposed debt payment programme. There is a form for you to fill in and return to the money adviser below.

SCHEDULE 3

Regulation 15(e)

The Debt Arrangement Scheme (Scotland) Regulations 2004 Regulation 35(2)

FORM 5(a)

NOTIFICATION TO CREDITOR OF APPROVAL OF A DEBT PAYMENT PROGRAMME

1 Creditor

Name	<input type="text"/>
Other names (if any)	<input type="text"/>
Business address	<input type="text"/>
Postcode	<input type="text"/>

2 DAS case number

<input type="text"/> <input type="text"/> <input type="text"/>	/	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	/	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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3 Person in debt payment programme

Surname	<input type="text"/>
First name	<input type="text"/>
Other names	<input type="text"/>
Date of birth	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Home address	<input type="text"/>
Postcode	<input type="text"/>
Business name (if applicable)	<input type="text"/>
Business address (if applicable)	<input type="text"/>
Postcode	<input type="text"/>

4 Money adviser

Surname

First name(s)

Money adviser case reference

Name of organisation

Business address

Postcode

Business phone number

E mail address

5 Payments distributor

Name of payments distributor

6 Date programme approved

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7 Notification

A debt payment programme was approved on the above date under the Debt Arrangement Scheme (Scotland) Regulations 2004

Signature of person giving notice

Print name

Date

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SCHEDULE 4

Regulation 15(f)

The Debt Arrangement Scheme (Scotland) Regulations 2004

Regulation 35

FORM 7(a)

NOTICE OF RECALL OF AN ATTACHMENT

1 Date of notice / /

2 DAS case number / /

Details of debtor

3 Surname

First name(s)

4 Address

Postcode

5 Business Name (if applicable)

Business address (if applicable)

Postcode

Details of person who made the attachment

6 Surname

First name(s)

7 Address

Postcode

Details of attachment

8 Date of attachment

9 Details of attachment

A debt payment plan has been approved for the above-named debtor under the Debt Arrangement Scheme (Scotland) Regulations 2004. The attachment we have specified in this notice has been recalled under these regulations. The recall has effect from midnight on [*specify date in accordance with regulation 28(2)*].

Name of person giving this notice

Signature

On behalf of the DAS administrator

SCHEDULE 5

Regulation 15(g)

The Debt Arrangement Scheme (Scotland) Regulations 2004

Regulation 37

FORM 8

APPLICATION FOR VARIATION OF A DEBT PAYMENT PROGRAMME

SECTION 1

1 DAS case number

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2 Date DPP was approved

--	--

--	--

--	--	--	--

Details of debtor

3 Title

--

Surname

--

First name(s)

--

All other names debtor known by

--

Date of birth

--	--

--	--

--	--	--	--

Home Address

--

--

--

--

Postcode

--

4 Business name (if applicable)

--

Business address (if applicable)

--

--

--

--

Postcode

--

--

5 **Money Adviser**

Surname

--

First name

--

Unique identification number

--	--	--	--	--	--

6 Are you a creditor? Yes

--

 No

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*(If you have answered 'yes' to question 6, please complete section 2.
If you have answered 'no' to question 6, please go to section 3)*

SECTION 2

Only be completed by a creditor

- 7 Have you tried to agree this variation with the money adviser? Yes No

*(If you have answered 'no' you cannot apply for a variation.
You **must** contact the money adviser first)*

Your details

- 8 Your name or business name
- Your address or business address
- Postcode
- Phone number

Reasons for variation

- 9 Is there agreement between the debtor and all creditors taking part in the programme? Yes No
- 10 Is there agreement between the debtor and any creditor to discharge or waive any sum or interest? Yes No
- 11 Is there a material change in the circumstances of the debtor? Yes No
- 12 Has a debt has been omitted from the programme due to mistake, oversight or other reasonable cause? Yes No
- 13 Is a former future or contingent debt now quantified and due for payment? Yes No
- 14 Does the debtor need credit for an essential requirement? Yes No

15 Provide full details in respect of each of questions 9 to 14 where the answer is 'yes'

16 Have you given a copy of this form to the money adviser, the debtor, and all creditors taking part in the programme? Yes No

(An application for variation will not be considered by the DAS administrator unless you answer 'yes' to question 16)

Signature of creditor

17 I apply for a variation of the debt payment programme, as set out in this application

Signature

Date

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Position in company (if applicable)

SECTION 3

Only to be completed by a money adviser on behalf of a debtor

Grounds of variation

- 18 Is there agreement between the debtor and all creditors taking part in the programme? Yes No

- 19 Is there agreement between the debtor and any creditor to discharge or waive any sum or interest? Yes No

- 20 Is there a material change in the circumstances of the debtor? Yes No

- 21 Has a debt has been omitted from the programme due to mistake, oversight or other reasonable cause? Yes No

- 22 Is a former future or contingent debt now quantified and due for payment? Yes No

- 23 Does the debtor need credit for an essential requirement? Yes No

24 Provide full details in respect of each of questions 18 - 23 where the answer is 'yes'

SECTION 4

Details of varied proposal

Nominated payment distributor details (if changed)

25 Name of approved distributor

Repayment option

Equal Pro-rata

26 Payment method
(Select appropriate box with a X)

Direct debit
 Standing order
 Cheque
 Postal order
 Payment mandate
 Paypoint
 Other (please specify below)

Payment frequency

(Select appropriate box with a X)

Weekly
 Fortnightly
 4 weekly
 Monthly

Total debt £ p

Amount offered per instalment £ p

Amount of final instalment £ p

Number of instalments

27 Breakdown of debts and payments

Creditor's name, address (including postcode)	Amount owed	Payment offer (per instalment)	Amount of final instalment	% of total debt
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a <input type="text"/>	£ <input type="text"/>	p <input type="text"/>	£ <input type="text"/>	p <input type="text"/>	£ <input type="text"/>	p <input type="text"/>	<input type="text"/>
------------------------	------------------------	------------------------	------------------------	------------------------	------------------------	------------------------	----------------------

Type of debt

Has this creditor consented? Yes No

b

	£		p	£		p	£		p

Type of debt

Has this creditor consented? Yes No

c

	£		p	£		p	£		p

Type of debt

Has this creditor consented? Yes No

d

	£		p	£		p	£		p

Type of debt

Has this creditor consented? Yes No

e

	£		p	£		p	£		p

Type of debt

Has this creditor consented? Yes No

f

	£		p	£		p	£		p

Type of debt

Has this creditor consented? Yes No

g

	£		p	£		p	£		p

Type of debt

Has this creditor consented? Yes No

Do you need to list any more creditors? Yes No (If 'yes', please use continuation sheet)

SECTION 5

28 Has a copy of this form been given to each creditor taking part in the debt payment programme? Yes No

(An application for variation will not be considered by the DAS administrator unless you answer 'yes' to the question 28)

29 Please give us any other relevant information

Declaration by money adviser

30 I confirm that I have given the debtor money advice in respect of the variation sought, in accordance with section 3(1) of the Debt Arrangement and Attachment (Scotland) Act 2002

Signature..... Date

Signature of debtor

31 I apply for a variation of the debt payment programme, as set out in this application

Signature..... Date

SCHEDULE 6

Regulation 15(h)

The Debt Arrangement Scheme (Scotland) Regulations 2004

Regulation 42(2)

FORM 10

APPLICATION FOR REVOCATION OF A DEBT PAYMENT PROGRAMME

SECTION 1

- 1 DAS case number / /
- 2 Date debt payment programme was approved

Details of debtor

- 3 Title
- Surname
- First name(s)
- 4 Address
- Postcode
- 5 Debtor's Business name (if applicable)
- Debtor's Business address (if applicable)
- Postcode

Details of money adviser

- 6 Surname
- First name
- Unique identification number (if known)
- 7 Are you a creditor Yes No

If you have answered 'yes,' go to section 2. If you have answered 'no', go to section 3

SECTION 2

Only complete this section if you are a creditor

Your details

8	Name (or business name)	<input type="text"/>
9	Address (or business address)	<input type="text"/>
		<input type="text"/>
		<input type="text"/>
		<input type="text"/>
	Postcode	<input type="text"/>
	Phone number	<input type="text"/>

Please tell us here why you are applying for the DPP to be revoked

(All the legal references are to the Debt Arrangement Scheme (Scotland) Regulations 2004)

- 10 Does the debtor have a money adviser? Yes No
- 11 Has the debtor petitioned for their own sequestration? Yes No
- 12 Has the debtor failed, without reasonable cause, to satisfy a condition under regulation 29 or 30? Yes No

If you have answered 'yes, please provide details

- 13 Has the debtor made a statement in their application for a DPP, which they know to be untrue? Yes No

If you have answered 'yes, please provide details

- 14 Has the debtor failed to make an instalment under the programme, which means that they are now in arrears of an amount equal to 3 payments? Yes No

If you have answered 'yes, please provide details

- 15 Please provide any further information

- 16 I/we apply for revocation of the debt payment programme

Signature _____ Date

Print name in block capitals _____

Position in company (if applicable) _____

SECTION 3

Only complete this section if you are a money adviser

Grounds for revocation

(All the legal references are to the Debt Arrangement Scheme (Scotland) Regulations 2004)

- 17 Has the debtor petitioned for their own sequestration? Yes No
- 18 Has the debtor failed, without reasonable cause, to satisfy a condition under regulation 29 or 30? Yes No

If you have answered 'yes, please provide details

- 19 Has the debtor made a statement in their application for a DPP which they know to be untrue? Yes No

If you have answered 'yes, please provide details

- 20 Has the debtor failed to make an instalment under the programme which Yes No
means that they are now in arrears of an amount equal to 3 payments?

If you have answered 'yes, please provide details

- 21 Please provide any further information

Signature of debtor (if applicable)

- 22 I apply for revocation of the debt payment programme

Signature _____ Date

Money adviser's signature

- 23 I apply for revocation of the debt payment programme

Signature _____ Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Debt Arrangement Scheme (Scotland) Regulations 2004 (S.S.I. 2004/[] (“the principal Regulations”), which provide for a scheme for repayment of multiple debts in Scotland.

The principal Regulations provide for procedure and forms in respect of a repayment arrangement under the scheme, which on approval is described as a debt payment programme. The DAS administrator has the main responsibility for approval or rejection of applications for approval as a money adviser or payments distributor, and for approval, variation or revocation of a debt payment programme.

Regulation 3 amends regulation 1 of the principal Regulations to provide that the principal Regulations shall come into force on 30th November 2004.

Regulation 4 amends regulation 5 of the principal Regulations to provide that fees payable in respect of inspection of the register of approved debt payment programmes shall be payable in advance.

Regulation 5 amends regulation 7 of the principal Regulations to provide that a debtor does not require to give written notice to the DAS Administrator when a money adviser ceases to act for the debtor by reason of the resignation, or revocation or suspension of approval, of the money adviser. It also clarifies and confirms the duty upon a money adviser to assist the debtor to appoint a replacement money adviser when the approval of the first money adviser has been suspended or the money adviser has resigned.

Regulation 6 inserts a new regulation 9(4) in the principal Regulations imposing a duty on the DAS Administrator to provide written notice to a debtor whenever the approval of their money adviser is suspended or revoked.

Regulation 8 amends regulation 16 of the principal Regulations by increasing the administration fee which can be charged by a payments distributor from 5% to 10% of the sum due to be paid to a creditor in a distribution by the payments distributor.

Regulation 9 amends regulation 29(2) of the principal Regulations and inserts two further standard conditions that will apply to all approved debt payment programmes.

Regulation 10 amends regulation 30(3)(a) of the principal Regulations so that only the debtor’s sole or main residence is excepted when the DAS administrator is considering whether to require the realisation of an asset.

Regulation 11 amends regulation 35 of the principal Regulations by providing–

- that attachments are recalled;
- that awards payable under the Social Contributions and Benefits Act 1992 (c.4) are omitted from the list of circumstances where it is permissible to give credit to a debtor;
- that the reference in regulation 35(5)(a)(ii) to section 40 of the Child Support Act 1991 (c.48), which does not apply to Scotland, is replaced with a reference to section 40A of the Child Support Act 1991;
- for the use of new forms 5(a) and 7(a).

Regulation 14 amends regulation 50 of the principal Regulations to provide that an appeal to the sheriff under paragraph (1), (2) or (3) shall be by summary application and an appeal to the sheriff principal under paragraph (4) or (5) shall be by note of appeal.

Regulation 15 amends Schedule 1 to the principal Regulations by omitting form 2 (Application for approval as a payments distributor) and form 12 (Report of completion by a payments distributor). The applications and reports which were to be made using those forms are now to be made in writing (see regulations 7, 12 and 13). Forms 3, 4, 8 and 10 are omitted and replaced with the forms set out in Schedules 1, 2, 5 and 6 respectively. A new form 5(a) is inserted for notifications to creditors of approval of a debt payment programme and a new form 7(a) is inserted for notice of recall of an attachment.

Regulation 16 amends Schedule 5 to the principal Regulations by omitting the duty on payments distributors to make and maintain appropriate arrangements for customer services.