

2007 No. 187

DEBT

DILIGENCE

**The Debt Arrangement Scheme (Scotland) Amendment (No. 2)
Regulations 2007**

<i>Made</i> - - - -	<i>7th March 2007</i>
<i>Laid before the Scottish Parliament</i>	<i>8th March 2007</i>
<i>Coming into force</i> - -	<i>30th June 2007</i>



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The Scottish Ministers, in exercise of the powers conferred by sections 2(3), 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 and commencement

1. These Regulations may be cited as the Debt Arrangement Scheme (Scotland) Amendment (No. 2) Regulations 2007, and come into force on 30th June 2007.

Interpretation

2. In these Regulations “the 2004 Regulations” means the Debt Arrangement Scheme (Scotland) Regulations 2004(b).

Amendments to the 2004 Regulations

- 3.—(1) The 2004 Regulations are amended in accordance with paragraphs (2) to (3).
- (2) In regulation 2 (interpretation: general)—
- (a) for the definition of “protected trust deed” substitute—
““protected trust deed” has the meaning given by section 73(1) of the 1985 Act;”;
 - (b) for the definitions of “sheriff” and “sheriff principal” substitute—
““sheriff” means the sheriff of the sheriff court district in which a debtor habitually resides;”.
- (3) In regulation 8 (approval of a money adviser), in paragraph (4), for the word “2” substitute “3”.

(a) 2002 asp 17. Section 9(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. Section 2 has been amended by sections 211(2) and 212(2) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“the 2007 Act”). Section 4 has been amended by regulation 35(4) of the Debt Arrangement Scheme (Scotland) Regulations 2004 (S.S.I. 2004/268). Section 5 has been amended by section 212(4) of the 2007 Act. Section 7 has been amended by section 212(5) of the 2007 Act. Section 62 has been amended by section 211(4) of the 2007 Act.

(b) S.S.I. 2004/468, amended by S.S.I. 2004/470.

- (4) In regulation 10(2) (persons who are not to be money advisers)–
- (a) in sub-paragraph (e), for “sections 54(a) (automatic discharge after 3 years)” substitute “section 54 (automatic discharge after a year)”;
 - (b) in sub-paragraph (g), at the end add “or under section 56A or as the case may be 56F or 56G of the 1985 Act(b)”;
 - (c) in sub-paragraph (h), for “entered into” substitute “granted”.
- (5) In regulation 11 (functions and duties of a money adviser)–
- (a) in paragraph (1)–
 - (i) in sub-paragraph (e), for the word “sixth” substitute “twelfth”;
 - (ii) omit sub-paragraph (g); and
 - (b) omit paragraph (2).
- (6) In regulation 18 (information on the DAS Register)–
- (a) in paragraph (2)–
 - (i) before sub-paragraph (a) insert–
 - “(za) an intimation under regulation 22(2A);”;
 - (ii) for sub-paragraphs (b) and (c) substitute–
 - “(ba) an intimation under regulation 20(3);
 - (bb) a notice under regulation 31(1);”;
 - (iii) omit sub-paragraph (f); and
 - (iv) in sub-paragraph (h), omit “or sheriff principal”; and
 - (b) in paragraph (3), after “each debtor” insert “who has given intimation under regulation 22(2A),”.
- (7) Omit regulation 19.
- (8) In regulation 20 (application for approval of debt payment programme)–
- (a) in paragraph (2)(c), for “section 7(4)” substitute “section 2(4)”;
 - (b) at the end add–
 - “(3) The debtor may, at any time before the application is approved or rejected, intimate to the DAS administrator that the application is withdrawn.”.
- (9) In regulation 21(2) (debtors who may apply for approval of debt payment programmes)–
- (a) in sub-paragraph (c), for “sections 54 (automatic discharge after 3 years)” substitute “section 54 (automatic discharge after a year)”;
 - (b) in sub-paragraph (e), at the end add “or under section 56A or as the case may be 56F or 56G of the 1985 Act”.
- (10) In regulation 22 (consent of every creditor)–
- (a) in paragraph (1), after “paragraph (3)” insert “and to regulation 26”;
 - (b) after paragraph (2) insert–
 - “(2A) A debtor who intends to send a request under paragraph (2) may give written intimation of that intention to the DAS administrator; but a debtor is not to give intimation under this paragraph on more than one occasion in any period of 12 months.”;
 - (c) omit paragraph (4); and
 - (d) in paragraph (5)–
 - (i) for “regulations 25, 26 or 27” substitute “regulation 25 or 26”;
 - (ii) omit “or dispensed with”.

(a) 1985 c.66. Section 54 has been amended by the Education (Student Loans) Act 1990 (c.6), section 1(5) and Schedule 2, paragraph 6(c)(ii), and is prospectively amended by section 1 of the 2007 Act.

(b) 1985 c.66. Sections 56A, 56F and 56G are prospectively inserted by section 2 of the 2007 Act.

- (11) Omit regulation 23.
- (12) In regulation 24 (composition and waiver of interest)–
 - (a) in paragraph (1), omit sub-paragraph (b); and
 - (b) in paragraph (2)(a), omit “or waiver”.
- (13) The heading to regulation 24 becomes “**Composition**”.
- (14) In regulation 26 (approval by the DAS administrator)–
 - (a) in paragraph (1), for “Subject to regulations 25 and 27” substitute “Where approval cannot be given under regulation 25”; and
 - (b) in paragraph (2)–
 - (i) after sub-paragraph (b) insert–
 - “(ba) the amount (if any) by which it appears to the DAS administrator, on the basis of such information as the creditors and the debtor have provided, that the value of any land owned by the debtor exceeds so much of the total amount of debt as is secured by way of a standard security over any interest in that land;”;
 - (ii) in sub-paragraph (g), omit “or objected”.
- (15) Omit regulation 27.
- (16) In regulation 28(2) (approval of a debt payment programme), for “of the second day after the date of the entry under paragraph (1) in the DAS Register” substitute “on the day immediately preceding that on which the notice is so entered”.
- (17) In regulation 29(1) (standard conditions), for “regulations 25, 26 or 27” substitute “regulation 25 or 26”.
- (18) In regulation 30(1) (discretionary conditions), for “regulations 25, 26 or 27” substitute “regulation 25 or 26”.
- (19) In regulation 31 (notification of approval or rejection of a debt payment programme)–
 - (a) in paragraph (1), for “of the application for approval” substitute “, on an application,”;
 - (b) in paragraph (2), for “an application for approval of a” substitute “the”;
 - (c) in paragraph (3)–
 - (i) for “an application for approval of a” substitute “the”; and
 - (ii) in sub-paragraph (b), for “approval” substitute “programme”; and
 - (d) in paragraph (4), in each of sub-paragraphs (a) and (b), for “an application” substitute “the programme”.
- (20) After regulation 31 insert–

“Diligence in the period before a debt payment programme is approved

31A.—(1) It is not competent to serve a charge for payment in respect of, or to commence or execute any diligence to enforce payment of, any debt–

- (a) during the period of 6 weeks immediately following an intimation by the debtor being entered in the DAS Register under sub-paragraph (za) of regulation 18(2); or
- (b) during the period immediately following an application by the debtor being entered in that Register under sub-paragraph (a) of regulation 18(2) and ending on the earliest of the dates mentioned in paragraph (2).

(2) The dates are–

- (a) that on which a notice that the debt payment programme is approved is entered in the DAS Register;
- (b) that on which notice of rejection of the debt payment programme, sent under regulation 31(1), is so entered; and

- (c) that on which intimation of withdrawal of the application in respect of the debt payment programme, given under regulation 20(3), is so entered.
- (3) During any such period as is mentioned in sub-paragraph (a) or (b) of paragraph (1), it is not competent in respect of the debt—

- (a) to make, under section 97(2) of the Bankruptcy and Diligence etc. (Scotland) Act 2007^(a), an order granting warrant for sale of attached land; or
- (b) to make, under section 136(2) of that Act, a satisfaction order.

(4) If an arrestment such as is mentioned in subsection (1) of section 73H of the Debtors (Scotland) Act 1987^(b) (automatic release of arrested funds) has been granted in respect of funds due to the debtor, it is not competent, during any such period as is so mentioned, to release funds under subsection (2) of that section; but the period in question is to be disregarded for the purposes of determining whether the period mentioned in subsection (3) of that section has expired.”.

- (21) In regulation 35(1) (effect on a creditor), omit sub-paragraphs (a) and (aa)(c).
- (22) In regulation 36 (effect on a debtor), for “enter into” substitute “grant”.
- (23) After regulation 36 insert—

“Diligence: further provision as regards effect of debt payment programme

36A.—(1) Where a debt payment programme is approved, it is not competent in respect of any debt—

- (a) to make, under section 97(2) of the Bankruptcy and Diligence etc. (Scotland) Act 2007, an order granting warrant for sale of attached land; or
- (b) to make, under section 136(2) of that Act, a satisfaction order.

(2) If an arrestment such as is mentioned in subsection (1) of section 73H of the Debtors (Scotland) Act 1987 (automatic release of arrested funds) has been granted in respect of funds due to the debtor, it is not competent, where a debt payment programme is approved, to release funds under subsection (2) of that section; but if the debt payment programme is revoked the period between its being approved and being revoked is to be disregarded for the purposes of determining whether the period mentioned in subsection (3) of that section has expired.”.

- (24) In regulation 37(5) (application for variation), for sub-paragraph (b) substitute—

“(b) on behalf of the debtor may be made by electronic means, but if so the money adviser shall retain the form 8, signed by the money adviser in accordance with section 3(2) of the Act, for a period of 5 years or for the period of the programme (whichever is longer).”.

- (25) In regulation 38(1)(d) (grounds for variation), after “omitted from” insert “, or was wrongly assessed for,”.

- (26) In regulation 39 (approval of a variation)—

- (a) in paragraph (2), omit “Subject to paragraph (3),”;
- (b) omit paragraph (3); and
- (c) in paragraph (4)—
 - (i) omit “, or sheriff as the case may be,”; and
 - (ii) in sub-paragraph (b), omit “or sheriff”.

- (27) In regulation 40 (notification of approval or rejection of a variation)—

- (a) in each of paragraphs (1) and (2), for “an application for” substitute “a”;

(a) 2007 asp 3.

(b) 1987 c.18. Section 73H is prospectively inserted by section 206 of the 2007 Act.

(c) Sub-paragraph (aa) was inserted by S.S.I. 2004/470, regulation 11(a).

- (b) in paragraph (3), for “an application for variation” substitute “a variation of a programme”; and
- (c) in paragraph (4)–
 - (i) for “the application for” substitute “a”; and
 - (ii) in sub-paragraph (c)(ii), omit “to be approved”.
- (28) In regulation 41 (revocation on sequestration) omit “Approval of”.
- (29) In regulation 42 (application for revocation)–
 - (a) in paragraph (1)–
 - (i) omit “the approval of”; and
 - (ii) for sub-paragraph (a) substitute–
 - “(a) a money adviser on behalf of the debtor;”; and
 - (b) after paragraph (2) add–
 - “(3) Any such application on behalf of the debtor may be made by electronic means, but if so the money adviser shall retain the form 10, signed by the money adviser, for a period of 5 years or for the period of the programme (whichever is the longer).”.
- (30) In regulation 43 (grounds for revocation)–
 - (a) omit “Approval of”;
 - (b) the existing words of the regulation (as so amended) become paragraph (1); and
 - (c) after that paragraph add–
 - “(2) A debt payment programme may be revoked by the DAS administrator (whether or not on an application under regulation 42) where the DAS administrator is satisfied that, for a continuous period of 6 months, the payments distributor has not received the sums which, in accordance with the debt payment programme, ought to have been received for distribution.
 - (3) A DAS administrator who proposes to revoke, under paragraph (2), a debt payment programme other than on an application under regulation 42 must give written notice of that proposal to–
 - (a) the debtor;
 - (b) each creditor who is being paid under the programme; and
 - (c) any creditor who has made an application for variation of the programme,
 and is not to implement the proposal until the expiry of a period of at least 4 weeks after the notice is given.”.
- (31) In regulation 44 (determination of a revocation)–
 - (a) in paragraph (1), at the end add–
 - “(d) where notice of proposed revocation is given under paragraph (3) of regulation 43, any representations made by the debtor or by the creditors, as regards the proposal, during the period mentioned in that paragraph.”; and
 - (b) in paragraph (2), omit “an approval of”.
- (32) In regulation 50 (appeals)–
 - (a) omit paragraphs (4) and (5);
 - (b) in paragraph (6)(a), omit sub-paragraph (b); and
 - (c) in paragraph (7), omit “or sheriff principal, as the case may be,”.
- (33) In Schedule 1 (which makes provision as regards forms)–
 - (a) in the arrangement of forms, omit the entries for forms 7 and 7(a);

(a) Paragraph (6) was substituted by regulation 14 of the Debt Arrangement Scheme (Scotland) Amendment Regulations 2004 (S.S.I. 2004/470).

- (b) for form 3 (application for approval of a debt payment programme), substitute the form set out in Schedule 1 to these Regulations;
- (c) 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;
- (d) for form 5 (notification of approval of a debt payment programme), substitute the form set out in Schedule 3 to these Regulations;
- (e) omit forms 7 and 7(a);
- (f) for form 8 (application for variation of a debt payment programme), substitute the form set out in Schedule 4 to these Regulations; and
- (g) for form 10 (application for revocation of a debt payment programme), substitute the form set out in Schedule 5 to these Regulations.

Saving

4. Except in so far as these Regulations relate to an application such as is mentioned in regulation 49A(2) of the 2004 Regulations (or relate to any variation consequent upon such an application), nothing in these Regulations affects a debt payment programme in respect of which a request was made under regulation 22(2) of the 2004 Regulations before the date on which these Regulations came into force.

St Andrew's House,
Edinburgh
7th March 2007

ALLAN WILSON
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 3(33)(b)

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

<input type="text"/>							
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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

M	A				
---	---	--	--	--	--

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 within the last 12 months intimated to the DAS Administrator an intention to apply for approval of a debt payment programme? Yes No

If you answer 'yes', please give the date of that intimation

- 10 Has the debtor 2 or more debts? Yes No
- 11 Does the debtor have a current trust deed or protected trust deed? Yes No
- 12 Has the debtor's estate been sequestrated under the Bankruptcy (Scotland) Act 1985, and the debtor not been discharged? Yes No
- 13 Has a bankruptcy order been made under the Insolvency Act 1986 in respect of the debtor, and the debtor not been discharged? Yes No
- 14 Is the debtor subject to a bankruptcy restrictions order or agreement under either of the Bankruptcy (Scotland) Act 1985 or the Insolvency Act 1986? Yes No
- 15 Is any income of the debtor subject to a conjoined arrestment order? Yes No

If yes, please answer question 16.

- 16 Has any creditor attempted to enforce payment of a debt that is not being paid under that order? Yes No

If you need to give any other information on a conjoined arrestment order, please use the any other relevant information box in section 5

Section 2

Proposed payment details

17 Name of approved distributor

18 Repayment option Equal Pro rata

19 Payment method Direct debit

(Select appropriate box with a X) Standing order

Cheque

Postal order

Pay Point

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

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

20 **Total debt** £ p **Amount offered per instalment** £ p

Amount of final instalment £ p

Number of instalments

21 **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 £ p £ p £ p

Type of debt

Account in the name of.

Account number

Account sort code

Creditor reference number

Has this creditor consented? Yes No

b £ p £ p £ p

Type of debt

Account in the name of.

Account number

Account sort code

Creditor reference number

Has this creditor consented? Yes No

c £ p £ p £ p

Type of debt

Account in the name of.

Type of debt	
Account in the name of.	
Account number	
Account sort code	
Creditor reference number	
Has this creditor consented?	Yes <input type="checkbox"/> No <input type="checkbox"/>

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

Section 3

Discretionary conditions

22 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

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

24 The debtor will seek agreement from a creditor to pay a continuing liability. Yes No

25 The debtor will complete and submit, when due, a tax or duty return or declaration. Yes No

26 The debtor will maintain an emergency fund in accordance with regulation 30 of the DAS Regulations. Yes No

27 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

28 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 29)

29 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

30 Is the amount due to the creditors refusing to consent more than 60% of the total debt in the programme? Yes No

31 Does the debtor own all or part of any land or buildings? Yes No

If yes, go to paragraph 33 and provide further information.

32 Has any creditor of the debtor requested the sale of land or buildings to satisfy the debt due to them? Yes No

If yes, go to paragraph 33 and provide further information.

33 *Please provide further information if the answer to either of questions 31 or 32 is 'yes'*

Section 5

34 Please give us any other relevant information

Signature of debtor

35 I confirm that, to the best of my knowledge, this form is complete and accurate.

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

Signature Date

Declaration by money adviser

36 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:

37 Gender Male Female

38 To which ethnic group do you consider you belong?

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

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

41 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 3(33)(c)

The Debt Arrangement Scheme (Scotland) Regulations 2004

Regulation 22(2)

Form 4

Proposal to creditor for a debt payment programme

Section 1

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

Section 2

10 Debt due to creditor

Description of debt (include creditor account or reference number)	Total amount due
<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
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Payment frequency (*select as appropriate*)

Weekly Fortnightly Monthly 4 Weekly

Number of instalments to be paid under proposed programme

11 Any further information

12 Payment distributor details

Name of payments distributor

13 You are asked to agree to payment of the debt(s) due to you as proposed in paragraph 10 of this form

Signature

Name

Date (dd/mm/yyyy)

Important information for creditors

Form 4

IMPORTANT INFORMATION FOR CREDITORS

A. Debt Arrangement Scheme (DAS)

The Debt Arrangement Scheme is a statutory scheme that has binding legal effect. A DAS debt payment programme has effect when it is approved by the DAS Administrator, on behalf of the Scottish Ministers.

DAS helps creditors by making it easier for people with multiple debts to pay most of what they are due.

B. Form 4

This form contains an offer to repay your debt as part of a debt payment programme involving a number of creditors.

You are asked to consent to the payment offer, but are entitled to refuse to do so. Please note, however, that the proposed programme may still be approved by the DAS administrator if it is 'fair and reasonable' in all the circumstances.

Please respond in writing to the payment offer by replying to the money adviser named above. If you refuse to consent please set out any supporting information that you think may help the DAS administrator to determine whether or not the proposed programme is fair and reasonable.

IF YOU DO NOT RESPOND WITHIN 21 DAYS THEN YOU WILL BE DEEMED TO CONSENT TO THE PROPOSED DEBT PAYMENT PROGRAMME.

C. Protection from enforcement

You can find out whether or not the debtor is protected from enforcement by checking to see if there is an entry on the DAS Register, which can be found on the DAS website at: www.moneyScotland.gov.uk.

IT IS UNLAWFUL TO SEQUESTRATE (BANKRUPT), OR TO USE DILIGENCE AGAINST, A DEBTOR WHO IS PROTECTED FROM ENFORCEMENT.

D. Discharge of obligations

THE OBLIGATION OF THE DEBTOR TO PAY ANY SUM DUE TO YOU IN RESPECT OF THE DEBT NOT SHOWN ON THIS FORM MAY BE DISCHARGED ON COMPLETION OF THE PROPOSED PROGRAMME.

Paragraph 10 of this form includes a figure for the total amount of debt due to you. This figure will (unless adjusted or varied as set out below) be the amount paid to you on approval and completion of the proposed programme.

It is therefore in your interests to notify the money adviser named above if you disagree with the figure shown in paragraph 10.

If the money adviser agrees that you are due a different amount then that figure will be given to the DAS administrator when applying for approval of the proposed programme.

If the money adviser does not agree with your calculation, and the proposed programme is approved, then you can ask the DAS administrator to determine the amount due at the date of approval. You can also appeal to the sheriff against that determination.

E. Further information

You can find out more about the rights and duties of debtors and creditors under DAS on the DAS website at: www.moneyScotland.gov.uk.

SCHEDULE 3

Regulation 3(33)(d)

The Debt Arrangement Scheme
(Scotland) Regulations 2004

Regulations 31(4)
and 35(2)

Form 5

Notification to creditor of approval of a debt payment programme

1 DAS case number

D	A	S
---	---	---

 /

2	0	0	
---	---	---	--

 /

--	--	--	--	--

2 Creditor

Name of company or firm

--

(or, if appropriate)

Surname

--

First name

--

Other names

--

Address

--

--

--

--

--

--

Postcode

--

3 Debtor

Surname

--

First name

--

Other names

--

Date of birth

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

Home address

--

--

--

--

--

--

Postcode

--

Business name *(if applicable)*

Business address *(if applicable)*

Postcode

4 Date of approval

<input type="text"/>							
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5 Money adviser

Surname

First name(s)

Money adviser case reference

Name of organisation

Business address

Postcode

Business phone number

E mail address

6 Debt

(Complete where, and as, appropriate)

Description of debt *(include any creditor account or reference number)*

Total amount due

	£		p
--	---	--	---

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

Approved payment

£		p
---	--	---

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

Amount of final instalment

£		p
---	--	---

Payment frequency

(select as appropriate)

- Weekly
- Fortnightly
- Monthly
- 4 Weekly

Number of instalments

Discretionary conditions attached to the programme (if any)

7 Payments distributor

Name of payments distributor

--

8 Notification

You are notified that the debtor specified in this notice is taking part in a debt payment programme approved under the Debt Arrangement Scheme (Scotland) Regulations 2004

Signature of person sending this notice

.....

Print name

.....

Date

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

IMPORTANT INFORMATION FOR CREDITORS

A. Debt Arrangement Scheme (DAS)

The Debt Arrangement Scheme is a statutory scheme that has binding legal effect. A DAS debt payment programme has effect when it is approved by the DAS Administrator, on behalf of the Scottish Ministers.

DAS helps creditors by making it easier for people with multiple debts to pay most of what they are due.

B. Form 5

This form is a notice to you that the DAS administrator has approved a debt payment programme, as proposed by the debtor named above. The debtor is therefore protected from enforcement.

The protection will apply until the programme is completed, but will stop if the programme is revoked before completion as a result of (say) continuing non-payment by the debtor.

IT IS UNLAWFUL TO SEQUESTRATE (BANKRUPT), OR TO USE DILIGENCE AGAINST, A DEBTOR WHO IS PROTECTED FROM ENFORCEMENT.

C. Further information

You can find out more about the rights and duties of debtors and creditors under DAS on the DAS website at: www.moneyscotland.gov.uk.

SCHEDULE 4

Regulation 3(33)(f)

The Debt Arrangement Scheme
(Scotland) Regulations 2004

Regulation 37(5)

Form 8

Application for variation of a debt payment programme

<p>Section 1</p> <p>Information about the programme</p> <p><i>(To be completed by all applicants)</i></p>

1	DAS case number	D	A	S	/	2	0	0	/					
2	Date DPP was approved													

Details of debtor

3	Title	<input style="width: 100%; height: 20px;" type="text"/>
	Surname	<input style="width: 100%; height: 20px;" type="text"/>
	First name(s)	<input style="width: 100%; height: 20px;" type="text"/>
	All other names debtor known by	<input style="width: 100%; height: 20px;" type="text"/>

Date of birth							
---------------	--	--	--	--	--	--	--

Home Address	<input style="width: 100%; height: 20px;" type="text"/>
	<input style="width: 100%; height: 20px;" type="text"/>
	<input style="width: 100%; height: 20px;" type="text"/>
	<input style="width: 100%; height: 20px;" type="text"/>
	<input style="width: 100%; height: 20px;" type="text"/>
Postcode	<input style="width: 100%; height: 20px;" type="text"/>

4	Business name <i>(if applicable)</i>	<input style="width: 100%; height: 20px;" type="text"/>
	Business address <i>(if applicable)</i>	<input style="width: 100%; height: 20px;" type="text"/>
		<input style="width: 100%; height: 20px;" type="text"/>
		<input style="width: 100%; height: 20px;" type="text"/>
		<input style="width: 100%; height: 20px;" type="text"/>
		<input style="width: 100%; height: 20px;" type="text"/>
		<input style="width: 100%; height: 20px;" type="text"/>
	Postcode	<input style="width: 100%; height: 20px;" type="text"/>

5 **Money Adviser**

Surname

First name

Unique identification number

M	A				
---	---	--	--	--	--

Are you a creditor?

Yes

No

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

Section 2

Creditor applications

(To be completed only where a creditor is applying for a variation)

6 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

7 Your name or business name

Your address or business address

Postcode

Phone number

Reasons for variation

8 Is there agreement between the debtor and all creditors taking part in the programme?

Yes

No

9 Is there agreement between the debtor and any creditor to cancel the obligation to repay any amount?

Yes

No

- 10 Is this variation for the purpose of ‘freezing’ interest and charges otherwise due to the creditors? 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 debt that was future or contingent 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 Where an application is by a creditor, has a copy of this form been given to the Yes No
- debtor,
 - the money adviser, and
 - every other creditor taking part in the debt payment programme?

(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

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

Position in company (if applicable)

--

Section 3

Money adviser applications

(To be completed only where a money adviser is applying for a variation)

Reasons for variation

- | | | | | | |
|----|--|-----|--------------------------|----|--------------------------|
| 18 | Is there agreement between the debtor and all creditors taking part in the programme? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 19 | Is there agreement between the debtor and any creditor to cancel the obligation to repay any amount? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 20 | Is this variation for the purpose of 'freezing' interest and charges otherwise due to the creditors? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 21 | Has either the DAS administrator or sheriff made a determination of the total amount of debt due at the date of approval of the programme? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 22 | Is there a material change in the circumstances of the debtor? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 23 | Has a debt has been omitted from the programme due to mistake, oversight or other reasonable cause? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 24 | Is a debt that was future or contingent now quantified and due for payment? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 25 | Does the debtor need credit for an essential requirement? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

26 Provide full details in respect of each of questions 18 to 25 where the answer is 'yes'

Section 4

Details of programme if varied as proposed

(To be completed only where a money adviser is applying for a variation)

Payment distributor details

27 Name of approved distributor *(if changed)*

Repayment option

Equal

Pro-rata

28 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

29 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"/>	£	p	£	p	£	p	<input type="text"/>
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							

Type of debt

b

<input type="text"/>	£	p	£	p	£	p	<input type="text"/>
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							

Type of debt

c

<input type="text"/>	£	p	£	p	£	p	<input type="text"/>
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							
<input type="text"/>							

Type of debt

d		£	p	£	p	£	p		
								Type of debt	

e		£	p	£	p	£	p		
								Type of debt	

f		£	p	£	p	£	p		
								Type of debt	

g		£	p	£	p	£	p		
								Type of debt	

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

Section 5
**Intimation to persons with an interest
further information**
(To be completed only where a money adviser is applying for a variation)

30 Where an application is by a money adviser, has a copy of this form been given to every other 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 question 30)

31 Please provide any other relevant information

Declaration by money adviser

32 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

SCHEDULE 5

Regulation 3(33)(g)

The Debt Arrangement Scheme (Scotland)
Regulations 2004

Regulation 42(2)

Form 10

Application for revocation of a debt payment programme

<p>Section 1</p> <p>Information about the programme</p> <p><i>(To be completed by all applicants)</i></p>

1 DAS case number

D	A	S	/	2	0	0		/					
---	---	---	---	---	---	---	--	---	--	--	--	--	--

2 Date debt payment programme was approved

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

Details of debtor

3 Title

--

Surname

--

First name(s)

--

4 Address

Postcode

--

5 Business name (if applicable)

Business address (if applicable)

Postcode

Details of money adviser

6 Surname

First name

Unique identification number M A

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

Creditor applications

(To be completed only where a creditor is applying for revocation)

(Note: the DAS administrator can only consider applications by creditors taking part in the programme. If you are not such a creditor then you cannot apply for revocation, but you may be able to apply for variation of the programme on a form 8)

Your details

8 Name (or business name)

9 Address (or business address)

Postcode

Phone number

10 Are you a creditor being paid under the debt payment programme? Yes No

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)

11 Does the debtor have a money adviser? Yes No

12 Has the debtor been sequestrated (bankrupted)? Yes No

13 Has the debtor failed to satisfy a standard condition under regulation 29 or a discretionary condition under regulation 30? Yes No

14 Has the debtor made a false statement in their application? Yes No

15 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' to any of questions 11 to 15, please provide details in the box provided

16 The DAS administrator may have regard to any factor that is considered appropriate in all the circumstances. Please use this box to provide any further information that you believe is relevant.

17 I/we apply for revocation of the debt payment programme

Signature

Date

Print name in block capitals

Position in company (if applicable)

Section 3

Money adviser applications

(To be completed only where a money adviser is applying for revocation)

Grounds for revocation

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

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)

- 18 Does the debtor have a money adviser? Yes No
- 19 Has the debtor been sequestrated (bankrupted)? Yes No
- 20 Has the debtor failed to satisfy a standard condition under regulation 29 or a discretionary condition under regulation 30? Yes No
- 21 Has the debtor made a false statement in their application? Yes No
- 22 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' to any of questions 18 to 22, please provide details in the box provided

- 23 The DAS administrator may have regard to any factor that is considered appropriate in all the circumstances. Please use this box to provide any further information that you believe is relevant.

Signature of debtor

24 I apply for revocation of the debt payment programme

Signature Date

Money adviser's signature

25 I apply for revocation of the debt payment programme

Signature Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Debt Arrangement Scheme (Scotland) Regulations 2004 (“the 2004 Regulations”), made under the Debt Arrangement and Attachment (Scotland) Act 2002, provide a scheme for repayment of multiple debts in Scotland. Part 13 of the Bankruptcy and Diligence (Scotland) Act substantially amended that Act of 2002.

These Regulations, which amend the 2004 Regulations, simplify the process under which applications for approval of debt payment programmes are determined and rationalise the effect which such programmes are to have on diligence generally.

2007 No. 187

DEBT

DILIGENCE

**The Debt Arrangement Scheme (Scotland) Amendment (No. 2)
Regulations 2007**

£6.50

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