EXECUTIVE NOTE

THE DEBT ARRANGEMENT SCHEME (SCOTLAND) REVOCATION REGULATIONS 2009
SSI 2009/258

The above instrument is made in exercise of the powers conferred on the Scottish Ministers by sections 2(3), 4(5), 5(4), 6(1), 7 and 62(2) of the Debt Arrangement and Attachment (Scotland) Act 2002 ("the 2002 Act") and all other powers enabling them to do so.

Policy Objectives

This instrument revokes the Debt Arrangement Scheme (Scotland) Amendment Regulations 2009 (S.S.I. 2009/234) prior to those Regulations coming into force on 1 July 2009.

Background

The intention of S.S.I. 2009/234 was to amend the Debt Arrangement Scheme ("DAS"), as set out in the Debt Arrangement Scheme (Scotland) Regulations 2004 (S.S.I. 2004/468), this instrument was last amended on 30 June 2007. Key amendments included the following –

1. To widen access to DAS by removing the requirement that applications can only be made by an approved money adviser on behalf of the debtor.

2. To allow a debt payment programme ("DPP") to consist of a single debt.

3. To restrict the period of a DPP by setting a minimum payment amount per month which will effectively preclude the proposal of exceptionally long DPPs for smaller debts. These restrictions would require a debtor to repay at least the greater of £100 per month or 1% of their total debt.

4. To transfer the administrative duties of the approved money adviser to the Accountant in Bankruptcy.

Consultation

The views of stakeholders, including Money Advice Scotland, Citizens Advice Scotland, the Institute of Chartered Accountants Scotland and local authorities were sought and incorporated in a review of DAS which was published in November 2008. Since then there has been ongoing informal consultation with the money advice sector in relation to the specific impact of the proposed changes on debtors and money advisers.

The Scottish Government considered that the case for change was sufficiently clear, and that the contributions of stakeholders had been taken into account. In view of the current economic climate, it was considered essential to extend DAS to a much wider group of debtors than is currently able to access the Scheme due to the limited availability of approved money advisers.

Although the Scottish Government has been working with stakeholders on the detail of the changes, it has become clear that some stakeholders in the money advice sector are concerned about removal of the mandatory advice gateway, which ensure debtors have the benefit of money advice, and that the minimum repayment under DPPs would unduly exclude debtors with low incomes.

In view of these concerns the Scottish Government has concluded that S.S.I. 2009/23 should be revoked and there should be a formal consultation over this Summer with fresh provision being introduced in the next session of Parliament.

Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared, as revoking S.S.I. 2009/234 before it comes into force is not expected to have any significant financial impact on Scottish businesses or the Scottish Government

Accountant in Bankruptcy
June 2009