

2015 No. 216

DEBT

**The Debt Arrangement Scheme (Scotland) Amendment
Regulations 2015**

<i>Made</i>	- - - -	<i>27th May 2015</i>
<i>Laid before the Scottish Parliament</i>		<i>29th May 2015</i>
<i>Coming into force</i>	- -	<i>27th June 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(1) and (2)(b), (bc)(ii), (c), (d) and (3) and 62(2) of the Debt Arrangement and Attachment (Scotland) Act 2002(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Debt Arrangement Scheme (Scotland) Amendment Regulations 2015 and come into force on 27th June 2015.

(2) In these Regulations, “the DAS Regulations” means the Debt Arrangement Scheme (Scotland) Regulations 2011(b).

Amendments to the DAS Regulations

2. The DAS Regulations are amended in accordance with regulations 3 and 4.

Exclusion of student loan debt

3. In regulation 3(2) (“debt” excluded from Debt Arrangement Scheme), after sub-paragraph (c), insert—

“(d) in respect of a student loan made—

- (i) by virtue of regulations made under section 73(f) of the Education (Scotland) Act 1980(c);
- (ii) under section 1 of the Education (Student Loans) Act 1990(d);

(a) 2002 asp 17. Section 7 was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) Act, section 212 and the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11) (“the 2014 Act”), section 53.

(b) S.S.I. 2011/141, as amended by S.S.I. 2013/225 and S.S.I. 2014/294.

(c) 1980 c.44. Section 73(f) was amended by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2).

(d) 1990 c.6. The Education (Student Loans) Act 1990 was repealed (subject to transitional and saving provisions) on 13th August 1998 (S.I. 1998/2004).

- (iii) by virtue of regulations made under section 22 of the Teaching and Higher Education Act 1998(a); or
- (iv) by virtue of regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998(b).”.

Diligence or sequestration in the period before a debt payment programme is approved

4. In regulation 30 (diligence or sequestration in the period before a debt payment programme is approved)—

(a) before paragraph (1)(c) insert—

“(ba) during the period immediately following an application by the debtor being entered in the DAS Register under regulation 19(2)(b) and ending on the earliest of the dates mentioned in paragraph (2A); or”; and

(b) after paragraph (1) insert—

“(2A) The dates mentioned in paragraph (1)(ba) are—

- (a) that on which a notice that the debt payment programme is approved is entered in the DAS Register;
- (b) that occurring 14 days after the date on which notice of rejection of the debt payment programme, sent under regulation 29(1), is so entered;
- (c) that occurring 28 days after the date on which an application for review under regulation 47(1) is so entered; and
- (d) that on which the intimation of withdrawal of the application in respect of the debt payment programme, given under regulation 20(4), is so entered.

(2B) Insofar as it relates to a period mentioned in paragraph (1)(ba) and (2A), this regulation does not apply while any period of protection applies under section 4D(1)(c) of the 1985 Act to which subsections (7) and (8) of that section apply (moratorium on diligence under the 1985 Act extended on application for approval of debt payment programme).”.

Transitional

5. These Regulations do not affect a debt payment programme in respect of which an application for approval was made (under regulation 20 of the DAS Regulations) before 27th June 2015.

FERGUS EWING

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
27th May 2015

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- (a) 1998 c.30. Section 22 was amended by the Learning and Skills Act 2000 (c.21), section 146(2(a) and Schedule 11, paragraph 1; the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, paragraph 236; the Finance Act 2003 (c.14), section 147(3); the Higher Education Act 2004 (c.8), sections 42(1) and 43(2) and Schedule 7, paragraph 1; the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), section 257(2); the Education Act 2011 (c.21), section 76(1) and (2)(a).
 - (b) S.I. 1998/1760 (N.I. 14).
 - (c) Section 4D of the Bankruptcy (Scotland) Act 1985 (c.66) was inserted by section 8 of the 2014 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Debt Arrangement Scheme (Scotland) Regulations 2011 (“the DAS Regulations”) provide for a scheme for the repayment of debts in Scotland, and procedure in respect of a repayment arrangement under the scheme, which on approval is described as a debt payment programme (“a programme”).

Regulation 3 amends the definition of “debt” to which the scheme applies, to exclude certain debts related to student loans.

Regulation 4 restores protections from diligence or sequestration after an application for approval of a programme is made but while it has not been approved, where the application has not been made within the 6 week moratorium period under sections 4A to 4D of the Bankruptcy (Scotland) Act 1985 following notice of intimation of the intention to apply for a programme. Sections 4A to 4D were inserted by section 8 of the Bankruptcy and Debt Advice (Scotland) Act 2014.

Regulation 5 makes transitional provision so the amendments do not apply to programmes for which approval is applied for before 27th June 2015.

A Business and Regulatory Impact Assessment has not been prepared for these Regulations.

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