
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2004 No.

The Debt Arrangement Scheme (Scotland) Regulations 2004

PART 3

PAYMENTS DISTRIBUTORS

Approval of a payments distributor

13.—(1) An application to the DAS administrator for approval as a payments distributor shall be in form 2.

(2) The DAS administrator shall approve an application under paragraph (1) if satisfied that the applicant is a fit and proper person or body to be a payments distributor.

(3) Without prejudice to the generality of paragraph (2), an applicant shall not be a fit and proper person if the person or body does not satisfy the criteria specified in Schedule 5.

(4) The DAS administrator may make approval under paragraph (2) subject to any reasonable condition.

(5) Approval as a payments distributor shall be for a period of 3 years, and may be renewed by a further application for approval made no later than 6 months before the end of an initial or a renewed period, as the case may be.

Revocation of approval of a payments distributor

14.—(1) The DAS administrator may revoke the approval of a payments distributor where—

- (a) the distributor fails without good reason to comply with a condition attached to the approval;
- (b) the administrator is satisfied that the distributor is no longer a fit and proper person to be an distributor; or
- (c) in the opinion of the DAS administrator the distributor—
 - (i) has failed without good cause to carry out a function of a distributor under the Act or under these Regulations; and
 - (ii) continues to fail to carry out that function, after 2 weeks from the date of written notice to the distributor of that failure.

(2) On an approval being revoked under paragraph (1), the distributor whose approval is revoked shall transfer to a substitute payments distributor the debt payment programmes for which that first distributor is responsible, within a reasonable period specified by the DAS administrator.

Functions and duty of a payments distributor

15.—(1) It is a function of a payments distributor—

- (a) to assist a money adviser with, and advise on, payments distribution;

- (b) to distribute sums received by the distributor in accordance with the debt payment programme, or any agreement for voluntary payment of a continuing liability;
- (c) to provide payment and distribution reports to money advisers, and to creditors;
- (d) subject to paragraph (2), to provide a facility for voluntary payment by a debtor of a continuing liability; and
- (e) to provide information to the DAS administrator about the exercise of a function of a payments distributor.

(2) Where a payments distributor is not providing the facility specified in paragraph (1)(d), the distributor may elect in respect of each period of approval under regulation 13(5), or part of a period if an election is made other than at the start of the period, whether or not to provide that facility.

(3) A payments distributor shall have regard to guidance issued by the DAS administrator when carrying out a function of a distributor.

Charges by a payments distributor

16.—(1) In the exercise of a function under the Act or these Regulations, a payments distributor—

- (a) subject to regulation 34, shall make no charge of any kind to a debtor; and
- (b) subject to paragraph (2), may charge an administration fee to a creditor taking part in a debt payment programme.

(2) An administration fee shall be no more than 5% of the sum due to be paid to a creditor in a distribution by the distributor.