
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 141

The Debt Arrangement Scheme (Scotland) Regulations 2011

PART 3

PAYMENTS DISTRIBUTORS

Payments distributors for a debt payment programme

13.—(1) An approved payments distributor whose name and address is specified in accordance with section 2(3)(c) of the Act is to act as the payments distributor for a particular debt payment programme if the DAS Administrator consents to that appointment.

(2) If the DAS Administrator does not so consent, the DAS Administrator must arrange for another approved payments distributor to act as payments distributor.

(3) In exercising its functions under this regulation, the DAS Administrator must have regard to the outcome of the tendering process under regulation 14(2).

Approval of a payments distributor

14.—(1) An application to the DAS Administrator for approval as a payments distributor must be in writing.

(2) The DAS Administrator must invite tenders for persons or bodies to be approved as payments distributors by a fair, open and transparent tendering process.

(3) The DAS Administrator must approve an application under paragraph (1) if—

(a) satisfied that the applicant is a fit and proper person or body to be a payments distributor; and

(b) the applicant is appointed following the tender process under paragraph (2).

(4) Without prejudice to the generality of paragraph (3)(a), an applicant is not a fit and proper person if the person or body does not satisfy the criteria specified in Schedule 4.

(5) The DAS Administrator may make approval under paragraph (3) subject to any reasonable condition.

(6) Approval is for any period stated in that approval (or in the tendering process under paragraph (2)).

Revocation of approval of a payments distributor

15. 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 DAS Administrator is satisfied that the distributor is no longer a fit and proper person to be a 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;
- (d) in the opinion of the DAS Administrator the distributor fails to comply without good reason with any condition to which the approval is subject under regulation 14(5).

Functions and duty of a payments distributor

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

- (a) to assist the DAS Administrator and any continuing money adviser with, and advise on, payments distribution;
- (b) to distribute sums received in accordance with the debt payment programme;
- (c) to provide payment and distribution reports to the DAS Administrator, any continuing money adviser, and to creditors;
- (d) to provide information to the DAS Administrator about the exercise of a function of a payments distributor; and
- (e) to remit the fee payable in accordance with regulation 5 to the DAS Administrator.

(2) On an approval being revoked under regulation 15 or a distributor otherwise ceasing to act, the distributor whose approval is revoked, or who ceases to act, must transfer to a substitute payments distributor specified by the DAS Administrator the debt payment programmes for which that first distributor is responsible, within a reasonable period specified by the DAS Administrator.

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

Charges by a payments distributor

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

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

(2) The administration fee must be no more than 8% of the sum due to be paid to a creditor in a distribution by the distributor.