



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

PART 1

THE DEBT ARRANGEMENT SCHEME

7 Debt payment programmes: power to make further provision

- (1) The Scottish Ministers may, by regulations, make such further provision as they think fit in connection with—
- (a) applications for the approval, or for the variation, of debt payment programmes;
 - (b) the manner in which such programmes are to operate, including conditions with which debtors, creditors, payments distributors or money advisers must comply;
 - (c) the effect of such programmes; and
 - (d) the effect of the failure of an employer to comply with the duty under section 6(2) above.
- (2) The regulations may, in particular, make provision about—
- (a) the class of person who may or may not make an application for the approval, or the variation, of a debt payment programme;
 - (b) the class of debt in respect of which such an application may or may not be made;
 - ^{F1}(ba) circumstances in which some or all of the functions of a money adviser under section 3 above may instead be carried out by an approved intermediary;
 - (bb) circumstances in which a debtor is entitled to make an application for the approval, or the variation, of a debt payment programme where the debtor has not obtained advice under section 3(1) above;
 - (bc) the manner in which—
 - (i) the seeking of the consent of creditors to applications for approval of debt payment programmes; or
 - (ii) the making of such applications,

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- affects the rights and remedies of creditors or other third parties;]
- [^{F2}(bd) the method of assessing the amount of a debtor's assets, income, liabilities and expenditure in considering applications for the approval, or the variation, of a debt payment programme,]
- (c) the matters to which the Scottish Ministers are to have regard in determining whether to approve such an application;
- (d) the conditions which may or may not be attached to an approval of such an application;
- (e) circumstances in which such an application will not be approved;
- (f) appeals against determinations by the Scottish Ministers on such applications;
- (g) circumstances in which the consent for the purposes of section 2(4) above of a creditor or creditors generally may be dispensed with;
- (h) circumstances in which a creditor may object to—
- (i) the dispensation of the creditor's consent; or
- (ii) the approval of such an application,
- and the manner in which such objection may be made;
- (i) the remitting of any such application in respect of which a creditor has made an objection to the sheriff for determination;
- (j) the manner in which a debt payment programme may be varied;
- (k) the priority in which debts are to be paid under a debt payment programme;
- (l) the ingathering and sale or other disposal of assets and the distribution to creditors of amounts so realised;
- (m) the period for which a debt payment programme is to remain in operation;
- (n) circumstances in which, and the procedure under which, any such period can, in relation to a particular debt payment programme, be shortened or extended;
- (o) circumstances in which a debt payment programme is to cease to have effect;
- (p) subject to section 4 above, the manner in which a debt payment programme affects the rights or remedies of a creditor or other third party;
- (q) circumstances in which creditors are to notify debtors of the right to make such an application and the effect of the failure of a creditor to provide that notice;
- (r) the class of person who may act as a payments distributor;
- (s) the class of person who may act as a money adviser;
- [^{F3}(sa) the class of person who may act as an approved intermediary;]
- (t) the functions of a payments distributor;
- (u) the functions of a money adviser;
- [^{F4}(ua) the functions of an approved intermediary;]
- [^{F5}(ub) the remuneration of payments distributors and money advisers,]
- (v) the establishment and maintenance by the Scottish Ministers of a register of debt payment programmes and applications for the approval, and variation, of such programmes;
- (w) the information which is to be kept in such a register;
- (x) the manner in which that information is to be kept and in which it, or any part of it, is to be made available to the public; and
- (y) the determination, and charging, by the Scottish Ministers of fees in respect of—
- (i) the consideration of applications for the approval, or the variation, of a debt payment programme; and

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- (ii) the provision of information recorded in the register of debt payment programmes.
- (3) The regulations may also—
- (a) make different provision in relation to such different types of debtors, debts or other matters as may be described by the Scottish Ministers;
 - (b) provide that such different provision is to have effect only for such period as is specified by the Scottish Ministers; and
 - (c) provide that, on the expiry of that period, the Scottish Ministers may determine that the different provision to which they relate is to—
 - (i) continue to have effect without limit of time;
 - (ii) continue to have effect for such further period as may be determined by the Scottish Ministers; or
 - (iii) cease to have effect.
- (4) The regulations may also modify any enactment (including this Act), instrument or document for the purposes of making such further provision as is mentioned in subsection (1) above.

Textual Amendments

- F1** S. 7(2)(ba)-(bc) inserted (8.3.2007) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 212(5)(a), 227(3)** (with s. 223); S.S.I. 2007/82, art. 3(b)
- F2** S. 7(2)(bd) inserted (30.6.2014) by [Bankruptcy and Debt Advice \(Scotland\) Act 2014 \(asp 11\)](#), **ss. 3(2), 57(2)**; S.S.I. 2014/172, art. 2, Sch.
- F3** S. 7(2)(sa) inserted (8.3.2007) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 212(5)(b), 227(3)** (with s. 223); S.S.I. 2007/82, art. 3(b)
- F4** S. 7(2)(ua) inserted (8.3.2007) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 212(5)(c), 227(3)** (with s. 223); S.S.I. 2007/82, art. 3(b)
- F5** S. 7(2)(ub) inserted (30.6.2014) by [Bankruptcy and Debt Advice \(Scotland\) Act 2014 \(asp 11\)](#), **ss. 53(3), 57(2)**; S.S.I. 2014/172, art. 2, Sch. (with art. 3)

Commencement Information

- I1** S. 7 in force at 24.9.2004 by [S.S.I. 2004/416](#), **art. 2(1)(b)**

Changes to legislation:

There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 7.