
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 141

The Debt Arrangement Scheme (Scotland) Regulations 2011

PART 5

APPROVAL OF DEBT PAYMENT PROGRAMMES

Debtors who may apply for approval

21.—(1) Subject to paragraphs (2) and (3), a debtor may apply for approval of a debt payment programme where the programme provides for the payment of one or more debts.

(2) An application for approval may not be made where—

- (a) subject to paragraph (4), payment of a debt of a debtor is being made under a conjoined arrestment order;
- (b) a debtor is a party to a protected trust deed;
- (c) a debtor's estate has been sequestrated, and the debtor has not been discharged under section 54 (automatic discharge after a year) or 75 (amendments, repeals and transitional provisions) of the 1985 Act;
- (d) a debtor is a bankrupt, who has not been discharged under sections 279 (duration) or 280 (discharge by order of the court) of the 1986 Act; or
- (e) a debtor is subject to a bankruptcy restrictions order (including an interim order) or bound by a bankruptcy restrictions undertaking, under Schedule 4A (bankruptcy restrictions order and undertaking) to the 1986 Act⁽¹⁾ or under section 56A or as the case may be 56F or 56G of the 1985 Act⁽²⁾.

(3) An application for approval of a debt payment programme which provides for the payment of only one debt may not be made where, in respect of that debt, the debtor is involved in a—

- (a) time to pay direction under section 1 (time to pay directions) of the Debtors (Scotland) Act 1987, or time to pay order under section 5 (time to pay orders) of that Act⁽³⁾; or
- (b) time order under section 129 (time orders) of the Consumer Credit Act 1974⁽⁴⁾.

(1) Section 4A was inserted by the Enterprise Act 2002 (c.40), Schedule 20, paragraph 1.

(2) Sections 56A, 56F and 56G were inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) ("the 2007 Act"), section 2.

(3) 1987 c.18. Section 1 was repealed in part by the Social Security Act 1998 (c.14) ("the 1998 Act"), Schedule 8, and amended by the Child Support Act 1991 (c.48), Schedule 5, paragraph 8, the Local Government Finance Act 1992 (c.14) ("the 1992 Act"), Schedule 13, paragraph 53, the Local Government etc. (Scotland) Act 1994 (c.39) ("the 1994 Act"), Schedule 13, paragraph 151, the 1998 Act, Schedule 7, paragraph 12, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) ("the 1999 Act"), Schedule 9, paragraph 1, the Water Industry (Scotland) Act 2002 (asp 3) ("the 2002 Act"), Schedule 7, paragraph 17, the Commissioners for Revenue and Customs Act 2005 (c.11), ("the 2005 Act"), Schedule 4, paragraph 33, the Finance Act 2008 (c.9) ("the 2008 Act"), Schedule 43, paragraph 13(1) and the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) ("the 2007 Act"), section 209(2) and 210(2). Section 5 was repealed in part by the 1998 Act, Schedule 8, and the Abolition of Poindings and Warrant Sales Act 2001 (asp 1), schedule, Part I, and amended by the 1992 Act, Schedule 13, paragraph 54, the 1994 Act, Schedule 13, paragraph 151, the 1999 Act, Schedule 9, paragraph 1, the 2002 Act, Schedule 7, paragraph 17, the 2005 Act, Schedule 4, paragraph 34, the 2008 Act, Schedule 43, paragraph 13(2) and the 2007 Act, section 209(3) and 210(3) and Schedule 5, paragraph 16(4).

(4) Section 129 was amended by the Debtors (Scotland) Act 1987 (c.18), Schedule 6, paragraph 17, and Schedule 7, paragraph 5.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) An application may be made where a creditor, including a creditor of a debt being paid under a conjoined arrestment order in respect of another debt not so paid, has attempted to enforce a debt due by the debtor by any lawful means.