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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 141**

**The Debt Arrangement Scheme (Scotland) Regulations 2011**

**PART 5**

**APPROVAL OF DEBT PAYMENT PROGRAMMES**

**Approval by the DAS Administrator**

**25.**—(1) Where approval cannot be given under regulation 24, the DAS Administrator must approve a debt payment programme that is fair and reasonable.

(2) In determining whether a debt payment programme is fair and reasonable, the DAS Administrator is to have regard to—

- (a) the total amount of debt;
- (b) the period over which a programme will operate;
- (c) the amount (if any) by which it appears to the DAS Administrator, on the basis of such information as the creditors and the debtor have provided, that the value of any land owned by the debtor exceeds so much of the total amount of debt as is secured by way of a standard security over any interest in that land;
- (d) the method, and frequency, of payments under a programme;
- (e) an earlier proposed programme that was not approved;
- (f) a matter specified in regulation 21(2) that would have prevented an application being made, where the matter no longer has that effect;
- (g) the involvement of the debtor in a—
  - (i) debt payment arrangement, including a debt payment programme under these Regulations;
  - (ii) 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<sup>(1)</sup>; or
  - (iii) time order under section 129 (time orders) of the Consumer Credit Act 1974<sup>(2)</sup>;
- (h) the extent to which creditors have consented (deemed or otherwise) to a programme;
- (i) any comment made by the money adviser; and
- (j) an asset of a debtor that could be realised to pay debts to be included in a programme.

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(1) [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 Section 1 was repealed in part by the Social Security Act [1998 \(c.14\)](#) (“the 1998 Act”), Schedule 8, and amended by the Child Support Act [1991 \(c.48\)](#), Schedule 5,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, and the [Water industry \(Scotland\) Act 2002 \(asp 3\)](#) (“the 2002 Act”), Schedule 7, paragraph 17. Section 5 was repealed in part by the 1998 Act, Schedule 8, and the [Abolition of POUNDINGS 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, and the 2002 Act, Schedule 7, paragraph 17.

(2) Section 129 was amended by the Debtors (Scotland) Act [1987 \(c.18\)](#), Schedule 6, paragraph 17, and Schedule 7, paragraph 5.

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

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(3) In determining whether a debt payment programme is fair and reasonable, the DAS Administrator may have regard to any other factor that the DAS Administrator considers appropriate.

(4) Approval under paragraph (1) may be made subject to a condition under regulation 28.