
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2004 No.

The Debt Arrangement Scheme (Scotland) Regulations 2004

PART 6

DEBT PAYMENT PROGRAMMES

Payment instruction to employer

33.—(1) A payment instruction to an employer of a debtor shall be in form 6.

(2) A debtor shall deliver an instruction to the employer, and provide the money adviser for the debt payment programme with a copy of the instruction.

(3) On delivery of an instruction, the employer of a debtor shall while the instruction is in effect deduct the sum specified in the instruction on every pay day, and pay the sum deducted to the payments distributor as soon as it is reasonably practical to do so.

(4) On delivery of an instruction, an employer shall make the payments due under the instruction, until recall of the instruction by—

(a) the debtor, where any other payment method approved under regulation 32 is substituted; or

(b) notice from a money adviser under regulations 45(3) or 49(2).

(5) An employer may on making a payment due under an instruction charge a fee equivalent to the fee chargeable for the time being under section 71 (employer's fee for operating diligence against earnings) of the Debtor's (Scotland) Act 1987(1), and deduct that fee from the balance then due to the debtor.

(6) Subject to paragraph (7), where an employer fails without good cause to make a payment due under an instruction, the employer shall—

(a) be liable to pay on demand by a payments distributor the amount that should have been paid; and

(b) not be entitled to recover from a debtor the amount paid to the debtor in breach of the mandate.

(7) The obligation of an employer to make a payment due under an instruction shall be extinguished one year after the date that the liability to pay arose, unless court proceedings for payment are commenced within that period.

(8) This regulation applies to any payment instruction, whether made in accordance with a condition under regulation 30 or otherwise.