

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2004 No. 505**

**Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) Amendment (The Debt Arrangement Scheme (Scotland) Regulations 2004) 2004**

**Citation and commencement**

1. This Act of Sederunt—
  - (a) may be cited as the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) Amendment (The Debt Arrangement Scheme (Scotland) Regulations 2004) 2004;
  - (b) shall come into force on 30th November 2004; and
  - (c) shall be inserted in the Books of Sederunt.

**Amendment and revocation of the principal Rules**

2.—(1) In the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002(1), Schedule 1 (Rules for applications in the Sheriff Court under the Debt Arrangement and Attachment (Scotland) Act 2002) is amended in accordance with the following paragraphs.

- (2) After Chapter 3 (Attachment: Articles kept within dwellinghouses) insert—

“CHAPTER 4

THE DEBT ARRANGEMENT SCHEME (SCOTLAND) REGULATIONS 2004

**Interpretation**

37.—(1) In this Chapter, “the Regulations” means the Debt Arrangement Scheme (Scotland) Regulations 2004(2).

(2) Any reference in this Chapter to a “regulation” shall be a reference to a regulation of the Regulations.

**Applications for approval by sheriff of debt payment programme**

38.—(1) An application to the sheriff for approval of a debt payment programme under regulation 27 of the Regulations shall be in Form 29.

(2) An application to which paragraph (1) applies shall be lodged with the sheriff clerk who shall—

- (a) fix a date for the hearing of the application (which date shall be not less than 7 days from the date of intimation made under sub-paragraph (c));
- (b) obtain from the sheriff a warrant to intimate the application to the debtor and the creditors;

---

(1) S.S.I. 2002/560.

(2) S.S.I. 2004/468; amended by S.S.I. 2004/470.

- (c) intimate the application and warrant to the debtor and the creditors;
  - (d) intimate the warrant to the applicant; and
  - (e) complete a certificate of intimation.
- (3) A warrant for intimation referred to in this rule shall be in Form 30.
- (4) A certificate of intimation referred to in this rule shall be in Form 31.
- (5) An interlocutor granted by the sheriff determining the application for approval of a debt payment programme shall be in Form 32.

- 39.**—(1) At a hearing fixed under rule 38(2)(a), the sheriff having heard interested parties—
- (a) shall grant the application in terms of regulation 27(1) if he is satisfied that the programme is fair and reasonable;
  - (b) may require of any of the parties further information before making any determination; or
  - (c) may adjourn the hearing and make the determination at the adjourned hearing.
- (2) In determining whether a programme is fair and reasonable, the sheriff shall have regard to the matters referred to in regulation 26(2).
- (3) An approval under rule 39(1)(a) may be made subject to a condition under regulation 30.

**Applications for approval by sheriff of variation of debt payment plan**

- 40.**—(1) An application to the sheriff for approval of a variation of a debt payment programme under regulation 39(3) shall be in Form 33.
- (2) An application to which paragraph (1) applies shall be lodged with the sheriff clerk who shall—
- (a) fix a date for the hearing of the application (which date shall be not less than 7 days from the date of intimation made under sub-paragraph (c));
  - (b) obtain from the sheriff a warrant to intimate the application to the debtor and the creditors;
  - (c) intimate the application and warrant to the debtor and the creditors;
  - (d) intimate the warrant to the applicant; and
  - (e) complete a certificate of intimation.
- (3) A warrant for intimation referred to in this rule shall be in Form 30.
- (4) A certificate of intimation referred to in this rule shall be in Form 31.
- (5) An interlocutor granted by the sheriff determining an application for variation shall be in Form 34.

- 41.**—(1) At a hearing fixed under rule 40(2)(a), the sheriff having heard interested parties—
- (a) shall grant the application in terms of regulation 39(3) if, having regard to the matters referred to in regulation 39(4), he is satisfied that the programme is fair and reasonable;
  - (b) may require of any of the parties further information before making any determination; or
  - (c) may adjourn the hearing and make the determination at the adjourned hearing.
- (2) An approval under rule 41(1)(a) may be made subject to a condition under regulation 30.”.

(3) In Appendix 1 of Schedule 1 (Forms) after Form 28 insert Forms 29 to 34 as set out in the Schedule to this Act of Sederunt.

Edinburgh  
22nd November 2004

*CULLEN OF WHITEKIRK*  
Lord President I.P.D.