

2007 No. 262

DEBT

DILIGENCE

**The Debt Arrangement Scheme (Scotland) Amendment
Regulations 2007**

Made - - - - - *22nd March 2007*

Coming into force - - - - - *30th June 2007*

The Scottish Ministers, in exercise of the powers conferred by sections 7A and 62(2) of the Debt Arrangement and Attachment (Scotland) Act 2002(a) and of all other powers enabling them in that behalf, hereby make the following regulations, a draft of which has, in accordance with section 62(4) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as the Debt Arrangement Scheme (Scotland) Amendment Regulations 2007, and come into force on 30th June 2007.

Interpretation

2. In these regulations “the 2004 regulations” means the Debt Arrangement Scheme (Scotland) Regulations 2004(b).

Amendments to the 2004 regulations

3.—(1) The 2004 Regulations are amended as follows.

(2) In regulation 38(1) (grounds for variation) for sub-paragraph (b) substitute—

“(b) on agreement between a debtor and a creditor that a liability of the debtor to repay a sum shall be discharged;

(ba) as mentioned in paragraph (2) of regulation 49A if the debt payment programme is one in relation to which (by virtue of regulation 4 of the Debt Arrangement Scheme (Scotland) Amendment Regulations 2007) paragraph (1) of regulation 49A does not apply;”.

(3) In regulation 39 (approval of a variation) in paragraph (1), for the words “or (b)” substitute “, (b) or (ba)”.

(4) After regulation 49 insert—

(a) 2002 asp 17.

(b) S.S.I. 2004/468, amended by S.S.I. 2004/470.

“Effect of completion of debt payment programme on debtor’s liability to pay interest, fees, penalties and other charges

49A.—(1) Subject to the terms of any agreement under regulation 34 and to the provisions of that regulation, any interest, fees, penalties or other charges—

- (a) which are not owed as at the date on which a debt payment programme is approved; and
- (b) which (but for this paragraph) would, in relation to a debt included in the programme, become payable after that date,

are not payable unless and until the debt payment programme is revoked and cease to be owed or payable if and when the debt payment programme is completed.

(2) The application referred to in regulation 38(1)(ba) is an application by the debtor for a variation so that, subject to the terms of any agreement under regulation 34 and to the provisions of that regulation, any interest, fees, penalties or other charges—

- (a) which are not owed as at the date of the application; and
- (b) which (but for any such variation) would, in relation to a debt included in the debt payment programme in question, become payable after that date,

would not be payable unless and until the debt payment programme is revoked and would cease to be owed or payable if and when the debt payment programme is completed.

(3) The amount of any such debt as is mentioned in paragraph (1)(b) or (2)(b) is the amount as detailed in the form 3 submitted, in respect of the debt payment programme, under regulation 20(2)(a) unless the debtor or creditor instead requires the DAS administrator to determine the amount of the debt (in which case it is the amount so determined).”.

(5) In regulation 50 (appeals)—

- (a) after paragraph (3) insert—

“(3A) As regards any debt included in a debt payment programme, the debtor or creditor may, on a point of law, appeal to the sheriff against a determination, under regulation 49A(3), of the DAS administrator.”; and

- (b) in paragraph (6)(a)—

“in sub-paragraph (a), for the words “paragraphs (1), (2) or (3)” substitute “paragraph (1), (2), (3) or (3A).”.

Saving

4. Except in so far as these regulations provide for or relate to an application such as is mentioned in regulation 49A(2) of the 2004 regulations (or provide for or relate to any variation consequent upon such an application), nothing in these regulations affects a debt payment programme in respect of which a request was made under regulation 22(2) of the 2004 regulations before the date on which these regulations came into force.

Allan Wilson

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
22nd March 2007

(a) Paragraph (6) was substituted by regulation 14 of the Debt Arrangement Scheme (Scotland) Amendment Regulation 2004 (S.S.I. 2004/470).

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Debt Arrangement Scheme (Scotland) Regulations 2004 (the “2004 Regulations”), made under the Debt Arrangement and Attachment (Scotland) Act 2002, provide a scheme for repayment of multiple debts in Scotland. Part 13 of the Bankruptcy and Diligence (Scotland) Act substantially amended that Act of 2002.

These regulations, which amend the 2004 regulations, are intended to extend the effect of debt payment programmes to render non-payable interest, fees, penalties and other charges which would otherwise become payable in relation to debts included in such programmes.

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