
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 315

**The Debt Arrangement Scheme
(Scotland) Amendment Regulations 2019**

Money advisers and payments distributors: approval, functions and fees

- 4.—(1) In regulation 2 (interpretation: general)—
- (a) before the definition of “the Act” insert—
 - ““AiB” has the meaning given in section 228 of the Bankruptcy (Scotland) Act 2016(1);”, and
 - (b) in the definition of “continuing money adviser” for “12(3)” substitute “12(1A)”.
- (2) In regulation 12 (functions and duty of a money adviser)—
- (a) after paragraph (1) insert—
 - “(1A) Where a money adviser—
 - (a) provides ongoing advice to the debtor and carries out administrative functions during the period of the debt payment programme; or
 - (b) advises a debtor which is a legal person, trust or unincorporated body of persons, (“a continuing money adviser”), it is also a function of that adviser to carry out the functions in paragraph (3).”,
 - (b) for paragraph (2) substitute—
 - “(2) A money adviser must not charge a fee for the adviser’s services to a debtor who is an individual.”,
 - (c) in paragraph (3) for the words from “Where a money adviser” to “of that adviser” substitute “The functions of a continuing money adviser referred to in paragraph (1A) are,”, and
 - (d) in paragraph (4), for “(3)” substitute “(1A)”.
- (3) Regulation 13 (payments distributors for a debt payment programme) is revoked.
- (4) In regulation 14 (approval of a payments distributor)—
- (a) omit paragraph (2),
 - (b) omit paragraph (3)(b) and the “and” immediately preceding it,
 - (c) in paragraph (6) omit “(or in the tendering process under paragraph (2))”, and
 - (d) at the end, insert—
 - “(7) AiB may not exercise any function of the DAS Administrator in considering and determining any application under this regulation by AiB.”.
- (5) In regulation 16 (functions and duty of a payments distributor) after paragraph (2) insert—
 - “(2A) Where the DAS Administrator specifies AiB as a substitute payments distributor under paragraph (2), AiB may at any time transfer on to an alternative payments distributor

specified by the DAS Administrator the debt payment programmes for which AiB is responsible.”.

- (6) In regulation 17 (charges by a payments distributor)—
 - (a) in paragraph (1)—
 - (i) omit the “and” immediately preceding sub-paragraph (b), and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) in the case of a debt payment programme for an individual, must charge an administration fee to a creditor taking part in a debt payment programme in accordance with paragraph (2); and
 - (c) in the case of a debt payment programme for a legal person, trust or unincorporated body of persons, may charge an administration fee to a creditor taking part in a debt payment programme in accordance with paragraph (3).”, and
 - (b) for paragraph (2) substitute—
 - “(2) In the case of a debt payment programme for an individual, the administration fee, including any VAT incurred, is 20% of the sum due to be paid to a creditor in a distribution by the distributor.
 - (3) In the case of a debt payment programme for a legal person, trust or unincorporated body of persons, the administration fee, including any VAT incurred, must be no more than 8% of the sum due to be paid to a creditor in a distribution by the distributor.”.
- (7) Omit regulation 20(2)(aa) (application for approval).
- (8) In schedule 4 (payments distributors) in paragraph 1(1)(2) for “A person” substitute “Be a person”.