

The Bankruptcy (Money Advice and Deduction from Income etc.) (Scotland) Regulations 2014

Scottish Ministers have laid The Bankruptcy (Money Advice and Deduction from Income etc.) (Scotland) Regulations 2014 before the Scottish Parliament. The Regulations prescribe who may act as a money advisor in respect of the mandatory advice to be provided under the Bankruptcy (Scotland) Act 1985. The Regulations still have to be approved by the Scottish Parliament but are expected to come into force on 1 April 2015 in line with the commencement of the Bankruptcy and Debt Advice (Scotland) Act 2014 ('BADAS Act').

The Regulations provide that money advisers may be:

- insolvency practitioners (or those who work for insolvency practitioners and have been given authority by them);
- persons who work for money advisers for organisations which have been awarded Type 2 level or above against the Scottish National Standards for Information and Advice Provision;
- are approved money advisers for the purposes of the Debt Arrangement Scheme;
- money advisers working for Citizens Advice Scotland; or
- local authority money advisers.

All money advisers are required to hold a licence from the Money Advice Trust to use the Common Financial Statement. The Regulations also provide for certain other persons who may not be approved money advisers and allow the AiB to revoke or suspend the approval of a money advisor who fails to apply the Common Financial Statement, fails to obtain evidence of a debtors income and expenditure or fails to maintain records in relation to advice given for a period of 2 years.

The Regulations specify the areas of advice that money advisers must provide the debtor with. The money advisor must also obtain and retain evidence of the debtor's income and expenditure and records of the advice given.

The Regulations make consequential amendments to the Bankruptcy (Certificate for Sequestration) (Scotland) Regulations 2010 to ensure that money advisers can provide a certificate for sequestration; a new form of the Certificate is brought in.

Three new forms are introduced to notify employers or other parties of the requirement to make deductions from employment or other income through an Debtor Contribution Order or a variation of such an order.

The Regulations withdraw LILA Regulations to allow for the introduction of the Minimal Asset Process (MAP). The provision within those regulations which prevents a debtor's home re-vesting after 3 years in respect of certain actions relating to gratuitous alienations are re-enacted.

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