

The Debt Arrangement Scheme (Scotland) Amendment Regulations 2014

Scottish Ministers have laid The Debt Arrangement Scheme (Scotland) Amendment Regulations 2014 in draft before the Scottish Parliament. The Regulations when passed will amend the DAS scheme generally from 11 December 2014 although aspects relating to the Common Financial Tool and other minor aspects relating to the Bankruptcy and Debt Advice (Scotland) Act 2014 ('BADAS Act') will not commence until 1 April 2015.

The Regulations amend the DAS scheme as follows:

- a DAS proposal must include all debts of the applicant;
- opens up DAS to legal persons (partnerships, limited partnerships under the Limited Partnership Act 1907, corporate bodies other than companies registered under the Companies Act 2006), trusts and unincorporated associations;
- specifies that for an individual the contribution is to be assessed using the Common Financial Tool;

Where the debt payment programme relates to a legal person, trust or unincorporated association the following shall apply:

- the money advisor must be an insolvency practitioner;
- the debt payment programme must be proposed over no more than 5 years from the date of application and be supported by a "Declaration of viability" by the money advisor. A "viability review" must be completed annually;
- a debt payment programme cannot be proposed where there is only a single debt;
- the application must be consented to by all partners in a partnership (all general partners and any limited partners who have participated in the management of the Limited Partnership), the majority of trustees in a trust, and an authorised person in relation to a body corporate or unincorporated association;
- notification must be given to OSCR where the applicant is a registered charity;
- a payment break is possible, subject to the proviso that all debts must still be repaid within 5 years from the date of application;
- non-trading assets may not be sold without the agreement of the money adviser;
- the debt payment programme may be revoked where there is a change in the partnership (if the partnership has fewer than 5 partners), a change in the trustees of a trust (if the trust has fewer than 5 trustees) or a material change in the objects or membership of a body corporate or unincorporated association;
- it shall not be possible to make an offer of composition.

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