

Changes to the Debt Arrangement Scheme after 30 June 2007

Changes to the existing regulations

- The approval period for money advisers will last 3 years instead of 2;
- A money adviser will be required to review a debt payment programme once every 12 months instead of once every 6 months;
- A money adviser will no longer need to seek revocation of a programme where the debtor has failed to make payments;
- The DAS administrator will be able to revoke programmes where the debtor has failed to make payments for a continuous period of six months ;
- A fee charging money adviser will not be required to tell the debtor about any 'free' alternative service, for example a local authority money advice service;
- Creditors will no longer be entitled to object to programmes on the grounds that a debtor has too much equity in land, or should be sequestrated; however,
- The DAS administrator will be able to take into account information about land and buildings when deciding whether or not to approve an application for a debt payment programme;
- The sheriff will no longer determine any application for approval of a debt payment programme;
- There will be a final right of appeal to the sheriff alone, and not to either the sheriff or the sheriff principal;
- When a DPP is approved, whether automatically or decided by the DAS administrator, that approval takes effect immediately (i.e. removal of the current 'two day delay').

New provisions

- If a debtor informs the DAS administrator, in writing, that (s)he intends to apply for the approval of a debt payment programme, this intimation will be entered on the DAS register. No creditor will be able to take enforcement action against the debtor for a period of six weeks following the date of the entry on the DAS register.
however
- The debtor can only make **one** such intimation in any 12-month period;
- No creditor will be able to take enforcement action against the debtor while an application for approval of a debt payment programme is being considered by the DAS administrator;
- Only interest, fees and charges which are already owed at the date the application for a DPP is approved are payable; no further interest, fees and charges can be added during the period of the DPP. However, if the DPP is revoked, or otherwise not completed, then **all** interest, fees and charges become payable;
- Similarly, for DPP cases which were in place prior to the implementation of the changes, it is open to money advisers to apply for a variation seeking the freezing of interest and charges. This 'freezing' would come into effect on the date the variation is approved. However, if the DPP is revoked, or otherwise not completed, then **all** interest, fees and charges become payable;

- Where there is disagreement about the amount of a debt, the DAS administrator can be asked to determine the debt;

Determining whether a case should be considered under the pre-30 June 2007 regulations, or under the post-30 June 2007 Regulations ('Savings Provision')

- For most legislation and legislative change, there is usually a savings provision which describes the impact of any change in current processes. The changes which are to be implemented to DAS on 30 June 2007 include such a saving provision, which is:

'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.'

- The effect of this is that for cases (with one exception) where the Form 4 is issued on or before 29 June 2007 the changes in the regulations will have no impact. Therefore, all cases where the Form 4 was issued on or before that date will proceed as at present until their natural conclusion.
- **The one exception is that pre-change cases are entitled to take advantage of the freezing of interest and charges provisions. This can be done by applying for a variation.**