

## The Debt Arrangement Scheme (Scotland) Amendment Regulations 2018

[http://www.legislation.gov.uk/ssi/2018/297/pdfs/ssi\\_20180297\\_en.pdf](http://www.legislation.gov.uk/ssi/2018/297/pdfs/ssi_20180297_en.pdf)

The following regulatory changes will be coming into force on 29 October 2018:

<b>Regulation 4</b>	<b>Correction of accidental errors</b>
DAS Administrator will be able to remedy “accidental errors” by a third party whereby incorrect information had been provided. Example of revocation on the basis of a debtor not paying their continuing liability being found incorrect as the local authority hadn’t processed the payments timeously.	
<b>Regulation 5</b>	<b>Approved money adviser: Financial Conduct Authority compliance</b>
Provides clarification regarding continuing money adviser compliance with FCA regulation.	
<b>Regulation 6</b>	<b>DAS Register: information which need not be included</b>
<p>The DAS Register will be brought in line with the Register of Insolvencies, in respect of case sensitivity for vulnerable individuals. This will follow sequestration guidance in allowing a debtor to withhold their address from the DAS Register. In these circumstances the address will either be the DAS Administrator or the address of the CMA, where applicable.</p> <p>Money advisers can notify the DAS Administrator of any legitimate reasons for certain details of the debtor being withheld or treated sensitively for the purpose of the DAS register using the sensitivity obligation template, which can be found at Schedule 2 Part 2. A copy of this template can be found at <a href="#">Annex 1</a> and will also be uploaded to DASH.</p>	
<b>Regulation 7</b>	<b>Continuing money adviser’s fee: disclosure</b>
CMA fee must be declared on the DAS Form 1 and DASH will be updated to include a field in which the CMA fee must be recorded.	
<b>Regulation 8</b>	<b>Common financial tool: exclusion of rent arrears and mortgage arrears</b>
<p>A debtor, on the advice of their money adviser, may omit a debt which is in relation to rent arrears or mortgage arrears in respect of the debtor’s sole or main residence.</p> <p>Debt excluded from the DPP must be declared on DASH and the DAS Form 1, as stipulated at Schedule 2 Part 3. Payments towards the debt will need to be alluded to in the statement of income and expenditure.</p>	

<b>Regulation 8 and Schedule A1</b>	<b>Common financial tool: debtor's contribution</b>
A debtor's income and expenditure must be assessed using CFT, however, the debtor will not be required to pay their full surplus income to their DPP if they choose not to.	

<b>Regulation 9</b>	<b>Business Debt Arrangement Scheme: application for approval</b>
Provision for single debt Business DAS DPPs	

<b>Regulation 10</b>	<b>Joint debt payment programme: terminology</b>
Updating terminology in terms of eligibility criteria for joint DPPs.	

<b>Regulation 11</b>	<b>Discretionary conditions: sole or main residence</b>
A debtor may include the sale, remortgage or any other condition regarding their sole or main residence, as a discretionary condition attached to their DPP.	

<b>Regulation 12</b>	<b>Business Debt Arrangement Scheme: protection from diligence or sequestration</b>
Reaffirming the protection from diligence or sequestration in relation to Business DAS	

<b>Regulation 13</b>	<b>Notification by continuing money adviser: recall of arrestment, approval or rejection of variation</b>
For continuity of process and administration, in cases where there is a CMA, the CMA will issue the outcome notification circular letters for the variation process.	
The DAS Administrator will continue to do this in public sector cases.	
The CMA will also be required to notify the employer, where a debtor is paying their DPP via an employment payment instruction.	

<b>Regulation 14</b>	<b>Accessing further credit</b>
Aligning DAS with sequestration to allow a debtor to incur up to £2000 debt without informing, or requiring approval from, the DAS Administrator. This only applies where the debtor does not already have additional debt over £1000	

<b>Regulation 15</b>	<b>Business Debt Arrangement Scheme: payment break</b>
Inclusion of payment breaks in Business DAS cases. Payment breaks can be applied on the premise that the term of the DPP will not be extended beyond a total period of 60 months.	

<b>Regulation 16</b>	<b>Grounds for variation: change in household circumstances, reduction in benefits</b>
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Introducing new grounds for payment break variation being “a reduction in social security benefits or tax credits (or both)”.

**Regulation 17 | Approval of variation: discharge of liability on compensation**

Allow variations to be automatically approved where a creditor is applying compensation.

**Regulation 18 | Forms**

Details of amendments to DAS Forms, as set out in the schedules contained within the Debt Arrangement Scheme (Scotland) Amendment Regulations 2018.

The template DAS forms on the AiB website will be updated with these amendments.

**Regulation 19 | Savings and transitional arrangements**

Details of savings and transitional arrangements in respect of existing DPPs and those for which an application for approval has been made on or after 29 October 2018.

We are in the process of updating the DAS and DASH guidance documents and further updates will be provided in due course.

## Annex 1

### 2f. Sensitivity obligation

In terms of the Debt Arrangement Scheme (Scotland) Regulations 2011 all DPP applications must be included in the DAS Register which is an on-line public record of all DPPs in Scotland. This information includes the applicant(s) name, address, date of birth, and principle place of business (if any).

However, where the DAS Administrator is of the opinion that inclusion of the information in the DAS Register would be likely to jeopardise the safety or welfare of any person (e.g. where a person may be at risk of violence) information about a DPP application need not be included in the DAS Register.

If you consider that inclusion of information about your DPP application in the DAS Register would be likely to jeopardise your safety or welfare, or that of any other person, you should set out the details below and provide supporting evidence (e.g. from the police) with this form. The DAS Administrator will then consider whether information about your DPP application should be included in the DAS Register.

I can confirm that I have legitimate reason for certain details being withheld or treated sensitively for the purpose of the DAS Register.

(only tick if applicable)

PLEASE GIVE DETAILS BELOW

