

Association of Business Recovery Professionals



The Insolvency Practitioner's View of the Debt Arrangement Scheme Four Years On

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R3's National Council Member for Scotland



R3 = “Rescue, recovery, renewal”

R3 = leading professional association for insolvency, business recovery and turnaround specialists in the UK.

R3 = promotes best practice for professionals working with financially troubled individuals and companies.

What is DAS?



- Help and time to pay debts
- All you need is surplus income
- Opportunity to freeze interest, fees and charges on your debt
- Find a money adviser
- Referred to DAS approved money adviser
- 2 or more debts

What does that mean?



- In practice, payment in full of principal debt, interest and charges at the date of approval
- No assets need transfer into the DPP – can keep the house
- Can last a varying degree of time – possibly up to 10 years
- Offers a degree of protection from creditors

In what circumstances might DAS work?



- Sufficient surplus income
- Debts not substantial
- Creditor pressure not substantial
- DPP lasts no more than 3 years
- Significant assets at risk if DPP fails

DAS is **not**:

- debt relief – not a formal bankruptcy procedure
- fixed time scale
- widely recognised in Scotland
- known outwith Scotland!



DAS compared to sequestration (1)



- All assets included in sequestration process
- Assets can be excluded from DAS
- Powers of investigation and enforcement available to trustee
- No significant powers of enforcement available to DAS administrator

DAS compared to sequestration (2)



- Debtor discharged from sequestration after one year (from 1 April 2008)
- Variable time period for DAS
- Debt relief at end of sequestration
- No debt relief in DAS

DAS compared to sequestration (3)



- Creditors get no, partial or full dividend in sequestration – asset dependent
- If sufficient funds available entitled to interest post sequestration
- Creditors expect payment in full of principal debt in DAS
- And can waive rights to future interest and costs

DAS compared to protected trust deed (1)



- All assets included in PTD
- Assets can be excluded from DAS
- Limited powers of investigation and enforcement available to trustee
- No significant powers of enforcement available to DAS administrator

DAS compared to protected trust deed (2)



- Debtor discharged from PTD usually after three years
- Variable time period for DAS
- Debt relief at end of PTD
- No debt relief in DAS

DAS compared to protected trust deed (3)



- Creditors get partial or full dividend in PTD
– asset and income dependent
- If sufficient funds available entitled to interest post PTD
- Creditors expect payment in full of principal debt in DAS
- And can waive rights to future interest and costs

Statistics



Fiscal year	12 months	6 months
	2007/08	2008/09
Sequestrations	6,158	2,426
LILAs	0	4,482
PTDs	<u>7,509</u>	<u>3,825</u>
Total	<u>13,667</u>	<u>10,733</u>

Projections for 2008/09



- DAS = 200
- Formal insolvency proceedings = 20,000
- Effective tool or blunt instrument?

Improve DAS – How?



- Huge advertising budget
- Improve debtor and creditor awareness
- Invest heavily in DAS approved money advisers
- Provide instant or faster solutions
- Or, just scrap it!

LILA



- Low income low asset route into sequestration
- New criteria in effect added to Apparent Insolvency
- Not creditor dependent

LILA (2)



- Debtor unable to meet debts and the following conditions are fulfilled
- Debtor's weekly income on date application made does not exceed prescribed amount
- currently national minimum wage
- Debtor does not own land

LILA (3)



- Total value of debtor's assets must not exceed prescribed amount £10,000
- each asset being not more than £1,000
- s33 BSA85 exemptions to vesting apply

LILA (4)



- Person in receipt of
 - Income support
 - Working families tax credit
 - Disabled persons tax credit
 - Housing benefit
 - Council tax benefit
- shall be treated as having no income
- In calculating income no account shall be taken of:
 - Social security benefits or tax credits
 - Income received by another person

Current economic climate



- Tough
- And getting tougher
- Sectors particularly under pressure:
- Property (domestic and commercial)
- Leisure/discretionary spend
- Retail
- Banking

Predictions



- Post Christmas retail collapse
- Very difficult trading conditions
- Redundancies up
- Debt collection very much harder
- Formal insolvencies, corporate and personal, will rise

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