



Bankruptcy and Debt Advice (Scotland) Act 2014

2014 asp 11

Payments by debtor following sequestration

3 Debtor's contribution: common financial tool

(1) After section 5C of the 1985 Act (inserted by section 1(2)), insert—

“5D Assessment of debtor's contribution

- (1) The Scottish Ministers may by regulations specify a method (the “common financial tool”) to be used to assess an appropriate amount of a living debtor's income to be paid to a trustee after the sequestration of the debtor's estate (the “debtor's contribution”).
- (2) Regulations under subsection (1) may in particular—
 - (a) prescribe a method for assessing a debtor's financial circumstances (including the debtor's assets, income, liabilities and expenditure),
 - (b) prescribe a method for determining a reasonable amount of expenditure for a debtor after the sequestration of the debtor's estate,
 - (c) prescribe the proportion of a debtor's income that is to constitute the debtor's contribution,
 - (d) prescribe that a method determined by another person is to be used (with or without modification in accordance with regulations made under subsection (1)) as the common financial tool.
- (3) The common financial tool must ensure that the amount of reasonable expenditure for a debtor is not less than the total amount of any income received by the debtor by way of guaranteed minimum pension (within the meaning of the [Pension Schemes Act 1993 \(c.48\)](#)).
- (4) The common financial tool must ensure that an amount is allowed for—
 - (a) aliment for the debtor,
 - (b) the debtor's relevant obligations.
- (5) The “debtor's relevant obligations” are—

Status: This is the original version (as it was originally enacted).

- (a) any obligation of aliment owed by the debtor (“obligation of aliment” having the same meaning as in the [Family Law \(Scotland\) Act 1985 \(c.37\)](#)),
 - (b) any obligation of the debtor to make a periodical allowance to a former spouse or former civil partner, and
 - (c) any obligation of the debtor to pay child support maintenance under the [Child Support Act 1991 \(c.48\)](#).
- (6) The amount allowed for the debtor’s relevant obligations referred to in paragraphs (a) and (b) of subsection (5) need not be sufficient for compliance with a subsisting order or agreement as regards the aliment or periodical allowance.”.
- (2) In section 7(2) of the [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#) (debt payment programmes: power to make further provision), after paragraph (bc) insert—
- “(bd) the method of assessing the amount of a debtor’s assets, income, liabilities and expenditure in considering applications for the approval, or the variation, of a debt payment programme,”.