

POLICY NOTE

THE BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014 (CONSEQUENTIAL PROVISIONS) ORDER 2014

SSI 2014/Draft

The above Order will, if approved, be made in exercise of the powers conferred by section 55 of the Bankruptcy and Debt Advice (Scotland) Act 2014 and all other powers enabling them to do so. It is subject to the affirmative procedure.

Policy Objectives

1. The policy aim of this Order is to make amendments to primary and secondary legislation to tidy up the statute book in consequence of the 2014 Act. This Order will come into force on 1 April 2015.
2. Provisions in the 2014 Act enhance measures contained in current debt management/relief legislation, principally the Bankruptcy (Scotland) Act 1985 (“the 1985 Act”). This Order updates statutory references in other legislation to bankruptcy legislation as a result of the changes.

Specific Provisions

3. Article 3 of and the Schedule to the Order make provision modifying primary and secondary legislation. Article 3 also provides that the modifications made by this Order will not apply in relation to sequestrations where the application was made before 1 April 2014.
4. The modifications provided for are in consequence of provisions in the 2014 Act which amend the 1985 Act by:-
 - introducing debtor contribution orders under section 32A to 32G of the 1985 Act in place of existing arrangements for income payment orders and agreements (section 4 of the 2014 Act)
 - amending existing provisions for discharge of debtors who have been sequestrated in sections 54A to 54C of the 1985 Act (amended by sections 7 and 17 of the 2014 Act)
5. Part 1 of the Schedule modifies the following primary legislation to refer to the new debtor contribution orders, and provisions under which the debtor will in future be discharged, rather than the old provisions:-
 - Section 73 of the Education (Scotland) Act 1980 on regulations relating to student loans
 - Paragraph 8 of schedule 6 to the International Criminal Court (Scotland) Act 2001 concerning freezing orders in respect of property liable to forfeiture in relation to sequestration
 - Section 70 of the Charities and Trustee Investment (Scotland) Act 2005 relating to charity trustee disqualification.

6. Part 2 of the Schedule modifies the following secondary legislation in similar ways:

- Regulation 18 of the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998
- Regulation 20 of the National Health Service (Scotland)(Injury Benefits) Regulations 1998
- Regulation 13 of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003
- Regulation E38 of the Teachers' Superannuation (Scotland) Regulations 2005
- Regulation 12 of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006
- Regulation 15 of the Education (Student Loans) (Scotland) Regulations 2007
- Regulation 49 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008
- Regulation 12 of the Graduate Endowment (Scotland) Regulations 2008
- Regulation T4 of the National Health Service Superannuation Scheme (Scotland) Regulations 2011
- Regulation 82 of the Local Government Pension Scheme (Scotland) Regulations 2014.

Consultation

7. The policy options in relation to the Bankruptcy and Debt Advice (Scotland) Act 2014 were subject of the “Bankruptcy Law Reform Consultation” <http://www.scotland.gov.uk/Publications/2012/02/6283n> published on 24th February 2012 and open until 18 May 2012. In addition to the consultation, a rolling number of stakeholder events were held throughout 2012-13. This Order makes provision directly consequential on the provisions and policy aims of the 2014 Act. Accordingly, no additional consultation has been undertaken in relation to the Order.

Impact Assessments

8. As this Order is consequential on the provisions and policy aims of the 2014 Act, no additional consultation has been undertaken in relation to the Order. A copy of the Business and Regulatory Impact Assessment prepared for the Bankruptcy and Debt Advice (Scotland) Bill 2014 can be found on the Scottish Government website at:-

<http://www.scotland.gov.uk/Resource/0042/00426999.pdf>

9. A copy of the Equality Impact Assessment prepared for the Bankruptcy and Debt Advice (Scotland) Bill 2014 can be found on the Scottish Government website at:-

<http://www.scotland.gov.uk/Resource/0042/00426418.pdf>

Financial Effects

10. A financial memorandum was published for the Bankruptcy and Debt Advice (Scotland) Bill 2014 and can be found at :

[http://www.scottish.parliament.uk/S4_Bills/Bankruptcy%20and%20Debt%20Advice%20\(Scotland\)%20Bill/b34as4-stage2-suppl-fm.pdf](http://www.scottish.parliament.uk/S4_Bills/Bankruptcy%20and%20Debt%20Advice%20(Scotland)%20Bill/b34as4-stage2-suppl-fm.pdf)

The Accountant in Bankruptcy on behalf of the Scottish Government

August 2014