
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 81

The Bankruptcy (Scotland) Act 1985 (Low Income, Low Asset Debtors etc.) Regulations 2008

Debtor's weekly income

2.—(1) The weekly income of whatever nature received by the debtor for the purposes of section 5A(2) of the 1985 Act is hereby prescribed as the amount of the national minimum wage of £220.80 per week (40 x £5.52 per hour) as determined in regulation 11 of the National Minimum Wage Regulations 1999(1) as amended or 40 times such sum as shall be substituted as the hourly rate of the national minimum wage in regulation 11 of those Regulations.

(2) For the purposes of section 5A(2) of the 1985 Act, a person in receipt of an income related benefit, as defined in section 191 of the Social Security Administration Act 1992(2) or an income-based jobseeker's allowance, as defined by section 1(4) of the Jobseekers Act 1995(3), or a working tax credit as defined by section 1(1)(b) of the Tax Credits Act 2002(4), shall be treated as having no income.

(3) In calculating the contribution of earned income to income for the purposes of section 5A(2) of the 1985 Act, where a debtor is paid monthly, the debtor's earned income shall be 12 times the amount of the monthly earnings divided by 52 (12/52 monthly earnings).

(4) In calculating the contribution of earned income to income for the purposes of section 5A(2) of the 1985 Act, where a debtor is paid regularly by a period other than a week or month, the debtor's earned income shall be the income for that period times such multiplier or divider as shall convert the period into a year divided by 52.

(5) In calculating weekly income for the purposes of section 5A(2) of the 1985 Act, no account shall be taken of social security benefits or tax credits.

(6) In calculating weekly income for the purposes of section 5A(2) of the 1985 Act, no account shall be taken of any income received by any other person.

(7) In calculating weekly income for the purposes of section 5A(2) of the 1985 Act, the amount of the weekly income shall be the person's gross income.

(8) Where a person's income varies, in calculating weekly income for the purposes of section 5A(2) of the 1985 Act, the weekly income shall be one twelfth of the total income actually received in the 12 week period immediately preceding the date of application, except that where a person has worked less than 12 weeks prior to the application the earnings of the less than 12 week period shall be divided by the number of weeks worked.

(1) S.I.1999/584 was amended, and the amount increased, by S.I. 2000/1989, S.I. 2001/2763, S.I. 2002/1999, S.I. 2003/1923, S.I. 2004/1930, S.I. 2005/2019, S.I. 2006/2001 and S.I. 2007/2318.

(2) 1992 c. 5.

(3) 1995 c. 18.

(4) 2002 c. 21.