

EXECUTIVE NOTE

THE DILIGENCE AGAINST EARNINGS (VARIATION) (SCOTLAND) REVOCATION REGULATIONS 2009 (S.S.I. 2009/133)

1. The above instrument has been made in exercise of the powers conferred on Scottish Ministers by sections 49(7)(a), 53(3) and 63(6) of the Debtors (Scotland) Act 1987 (“the 1987 Act”) and all other powers enabling them to do so. It is subject to negative resolution procedure.

Policy Objectives

2. This instrument revokes the Diligence against Earnings (Variation) (Scotland) Regulations 2009 (S.S.I. 2009/98) prior to those Regulations coming into force on 6 April 2009.

Background

3. The intention of S.S.I. 2009/98 was to modernise the earnings arrestment deduction tables by replacing them with simpler formulae and raise the threshold under which no deductions from earnings may be taken. The deduction tables were last amended in 2006 and are somewhat out of date. The Scottish Government has previously indicated it would review and uprate the tables every 3 years. Officials at the Accountant in Bankruptcy, for the Scottish Government, have been working with stakeholders, including the Institute of Payroll Professionals, HMRC and Citizen’s Advice Scotland, since November 2007 and agreed the need for modernisation. Stakeholders were provided with regular updates, and sought and received feedback, on the proposals.

4. Since making S.S.I. 2009/98 the Accountant in Bankruptcy has received representations making clear that the proposed changes had not been disseminated to stakeholders’ payroll software developers, who have raised new concerns at the eleventh hour about the implications of these changes and associated costs. They have explained that the proposed changes require modification of the core calculation of all payroll systems, which cannot be done easily and requires an enormous amount of work and post-implementation support and guidance. They acknowledge that modernisation is required to simplify the process and would welcome closer working relationships on future changes. They have also intimated that had the changes been forwarded to them earlier they could have been incorporated them in other payroll software work, reducing the cost impact of a further software change.

5. In the current economic climate, these additional costs could have a major impact on a number of firms UK-wide. Although attempts have been made to mitigate the impact and cost of S.S.I. 2009/98 by consulting with stakeholders, the Scottish Government considers that the appropriate way to address this now is to revoke the existing instrument.

6. By revoking the Regulations, the increase to the minimum earnings level is delayed, which in the current economic climate will help a number of people. The effects described above lead the Scottish Government to consider that some delay is necessary under the circumstances, but the Government intend to consider the changes in S.S.I. 2009/98 as a

matter of urgency in light of the issues raised and to bring forward replacement Regulations before Summer Recess.

Consultation

7. In view of the timescale on which these issues have arisen, formal public consultation has not been carried out, although feedback received from stakeholders, including the Institute of Payroll Professionals, has been taken into account.

Financial Effects

8. A Regulatory Impact Assessment has not been prepared, as revoking S.S.I. 2009/98 before it comes into force is not expected to have any significant financial impact on Scottish businesses or the Scottish Government.

Accountant in Bankruptcy
26 March 2009