

**EXECUTIVE NOTE TO**  
**THE BANKRUPTCY FEES (SCOTLAND) AMENDMENT REGULATIONS 2009**  
**(S.S.I. 2009/97)**

The above instrument was made in exercise of the powers conferred by sections 69A, 72 and 73(1) of the Bankruptcy (Scotland) Act 1985. The instrument is subject to negative resolution procedure.

**Policy Objectives**

The main purpose of the instrument is to increase, in line with inflation, the fees prescribed in the Bankruptcy Fees (Scotland) Regulations 1993<sup>1</sup> (“the principal Regulations”) which are payable to the Accountant in Bankruptcy (AiB) in respect of, and to cover costs of, the exercise of the AiB’s functions under the Bankruptcy (Scotland) Act 1985, except for fees that were first introduced from 1 April 2008<sup>2</sup>.

The increase is in line with inflation between April 2007 and December 2008 and will take effect from 1 April 2009. The fees were last increased by 20% from 1 February 2008 in line with inflation from April 1999 to April 2007<sup>3</sup>. There had been no adjustment since April 1999.

The instrument also amends regulation 3 of the principal Regulations to disapply the fees payable in Part I of the Schedule to the principal Regulations by an interim trustee or trustee acting on behalf of the AiB, and amends regulation 4 to enable the actual fee paid to such persons to be instead recovered as an outlay.

The instrument also prescribes a new fee payable to the AiB in respect of the administration of a creditor’s petition under the Bankruptcy (Scotland) Act 1985. This appears as item 2 in Part II of the table of fees in the Schedule to this instrument<sup>4</sup>. This new fee will take effect from 1 October 2009.

**Consultation**

There has been no formal consultation on the reforms in this instrument as the changes are in line with inflation since the last adjustment was made in 2008.

**Financial Effect**

The Regulations will increase fees by 5% in line with inflation between April 2007 and December 2008. These Regulations will impact on debtors’ estates which have sufficient funds to meet these costs and will affect the amount of any dividend.

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<sup>1</sup> As amended by S.I. 1999/752, S.S.I. 2007/220, S.S.I. 2008/5 and S.S.I. 2008/79.

<sup>2</sup> These fees were introduced by S.S.I. 2008/79.

<sup>3</sup> These increases were prescribed by S.S.I. 2008/5.

<sup>4</sup> Item 2 was previously omitted by S.S.I. 2008/79.

## **Regulatory Impact Assessment**

The instrument has no significant impact on Scottish businesses or public sector organisations and accordingly a Regulatory Impact Assessment is not required.

Accountant in Bankruptcy  
March 2009