

EXECUTIVE NOTE

THE DILIGENCE AGAINST EARNINGS (VARIATION) (SCOTLAND) REGULATIONS 2009 (S.S.I. 2009/98)

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 amends sections 53(2)(b) and 63(4)(b) of and Schedule 2 to the 1987 Act and replaces S.S.I. 2006/116 (although that instrument is retained for transitional purposes).

3. This instrument will increase debtor protection by raising the threshold beneath which deductions may not be taken from earnings by arrestment.

4. The deduction tables which form part of Schedule 2 have been simplified, to provide a process which is both straightforward for employers to operate and fairer for debtors who are subject to diligence against their earnings. Debtors will see gradual increases in deductions as a percentage of their earnings, as opposed to the steps operated in the old deductions table, which saw debtors at opposite ends of a wide earnings band paying the same amount.

5. Subsequent alterations to the tables can be easily applied, by taking into account the increases to median annual earnings contained in the Office for National Statistics’ Annual Survey of Hours and Earnings.

6. A mechanism is provided to calculate deductions on a weekly, monthly and daily basis.

Consultation

7. The amendments made by this instrument are intended to make minor changes to sections 53 and 63 of and Schedule 2 to the 1987 Act. No formal public consultation has been carried out, although advice has been taken from a statistician from the Scottish Government’s Analytical Services Division and comments from stakeholders including the Institute of Payroll Professionals, have been taken on board.

Financial Effects

8. A regulatory impact assessment has not been prepared in this instance, as the change is not expected to have any significant financial impact on the Scottish Government or Scottish businesses.

Accountant in Bankruptcy
2 March 2009