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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to the Bankruptcy (Scotland) Regulations 2008 (“the 2008 Regulations”) that are consequential on amendments to the Bankruptcy (Scotland) Act 1985 (“the 1985 Act”) made by Part 2 of the Home Owner and Debtor Protection (Scotland) Act 2010. The Regulations also amend the procedure to be followed, and the forms required, in debtor applications under the 1985 Act, and vary the value of vehicles that are exempt from attachment under the Debt Arrangement and Attachment (Scotland) Act 2002 (and hence not part of the assets covered by a sequestration or a protected trust deed).

Section 9 of the Home Owner and Debtor Protection (Scotland) Act 2010 amends the debtor application provisions in the 1985 Act by removing the concurrence of a qualifying creditor as one of the routes into sequestration, and introducing a new route of a certificate for sequestration signed by an authorised person. Consequent upon these changes, regulations 3(4)(a) to (d) make necessary amendments to regulation 14 of the 2008 Regulations and regulation 3(6) makes changes to the forms required in debtor applications and the form of statement of assets and liabilities required under section 19(2) of the 1985 Act.

Section 11 of the Home Owner and Debtor Protection (Scotland) Act 2010 amends section 40 of the 1985 Act by requiring a trustee to give notice to the Local Authority before applying to the court for certain orders in relation to the debtor’s family home. Regulations 3(5) and (6)(g) amend the 2008 Regulations so as to prescribe the form to be used when giving such notice.

Section 12 of the Home Owner and Debtor Protection (Scotland) Act 2010 abolishes the requirement for certain notices to appear in the Edinburgh Gazette. Regulation 3(3) makes amendments to the 2008 Regulations consequent on the abolition of these requirements.

Regulations 3(4)(e) and (f) amend the procedure to be followed in relation to debtor applications so as to allow the Accountant in Bankruptcy to require a debtor to provide further information when required to substantiate any fact.

Regulation 4 prescribes £3,000 as the upper limit on the value of a vehicle that may be exempt from attachment for the purposes of section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002.

Regulations 5, 6 and 7 contain savings provisions in relation to the revoked provisions of the 2008 Regulations.