

2015 No. 370

ENFORCEMENT

**The Diligence against Earnings (Variation) (Scotland)
Regulations 2015**

Made - - - - - *29th October 2015*
Laid before the Scottish Parliament *2nd November 2015*
Coming into force - - - *6th April 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 49(7)(a), 53(3) and 63(6) of the Debtors (Scotland) Act 1987(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Diligence against Earnings (Variation) (Scotland) Regulations 2015 and come into force on 6th April 2016.

Rate of deductions in diligence against earnings

2. In the Debtors (Scotland) Act 1987—

- (a) in sections 53(2)(b) (deductions to be made under current maintenance arrestments) and 63(4)(b) (deductions to be made under conjoined arrestment orders), for “15.12”(b) substitute “16.24”; and
- (b) for Tables A, B and C of Schedule 2(c) (deductions to be made under earnings arrestments), substitute respectively Tables A, B and C in the Schedule to these Regulations.

FERGUS EWING

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
29th October 2015

(a) 1987 c.18. The functions of the Lord Advocate were transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678) and to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46).
(b) This sum was most recently substituted by the Diligence against Earnings (Variation) (Scotland) Regulations 2012 (S.S.I. 2012/308).
(c) Tables A, B and C were most recently substituted by S.S.I. 2012/308.

SCHEDULE

Regulation 2(b)

TABLE A: DEDUCTIONS FROM WEEKLY EARNINGS

<i>Net earnings</i>	<i>Deduction^(*)</i>
Not exceeding £113.68	Nil
Exceeding £113.68 but not exceeding £410.90	£4 or 19% of earnings exceeding £113.68, whichever is the greater
Exceeding £410.90 but not exceeding £617.82	£56.47 plus 23% of earnings exceeding £410.90
Exceeding £617.82	£104.06 plus 50% of earnings exceeding £617.82

^(*) When applying a percentage the calculation should be done to two decimal places of a penny and the result rounded to the nearest whole penny, with an exact half penny being rounded down.

TABLE B: DEDUCTIONS FROM MONTHLY EARNINGS

<i>Net earnings</i>	<i>Deduction^(*)</i>
Not exceeding £494.01	Nil
Exceeding £494.01 but not exceeding £1,785.61	£15.00 or 19% of earnings exceeding £494.01, whichever is the greater
Exceeding £1,785.61 but not exceeding £2,684.51	£245.40 plus 23% of earnings exceeding £1,785.61
Exceeding £2,684.51	£452.15 plus 50% of earnings exceeding £2,684.51

^(*) When applying a percentage the calculation should be done to two decimal places of a penny and the result rounded to the nearest whole penny, with an exact half penny being rounded down.

TABLE C: DEDUCTIONS FROM DAILY EARNINGS

<i>Net earnings</i>	<i>Deduction^(*)</i>
Not exceeding £16.24	Nil
Exceeding £16.24 but not exceeding £58.70	£0.50 or 19% of earnings exceeding £16.24, whichever is the greater
Exceeding £58.70 but not exceeding £88.26	£8.07 plus 23% of earnings exceeding £58.70
Exceeding £88.26	£14.87 plus 50% of earnings exceeding £88.26

^(*) When applying a percentage the calculation should be done to two decimal places of a penny and the result rounded to the nearest whole penny, with an exact half penny being rounded down.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to certain figures relating to diligence against earnings in Part III of the Debtors (Scotland) Act 1987 (“the Act”).

Regulation 2(a) increases the figure in sections 53(2)(b) and 63(4)(b) of the Act, used to determine the sum to be deducted from earnings subject to a current maintenance arrestment or conjoined arrestment order, from £15.12 to £16.24.

Regulation 2(b) substitutes new Tables A, B and C for those in Schedule 2 to the Act which describe the deductions to be made from earnings subject to an earnings arrestment.

The increases have been calculated accounting for inflation, as previously done in the Diligence against Earnings (Variation) (Scotland) Regulations 2012. The Regulations replicate that methodology, but where the 2012 Regulations left the upper income threshold unchanged, these Regulations also uprate the upper income thresholds.

In accordance with sections 53(4) and (5), 63(7) and (8) and 69(1) and (2) of the Act, these Regulations do not apply to existing diligences until the Regulations are intimated to employers, unless employers choose to apply them. If they do not choose to do so the figures substituted by previous regulations will continue to apply until intimation takes place.

The increase to the lower monthly threshold will also raise the minimum balance in debtors’ bank accounts protected from arrestment by section 73F of the Debtors (Scotland) Act 1987, introduced by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), from £460.06 to £494.01.

A business and regulatory impact assessment was prepared in respect of the Regulations, copies of which can be obtained from the Accountant in Bankruptcy, 1 Pennyburn Road, Kilwinning.

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