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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2014 No.**

**The Bankruptcy (Money Advice and Deduction from Income etc.) (Scotland) Regulations 2014**

*Deduction from debtor's earnings and other income*

**Deduction from debtor's earnings and other income**

**8.—(1)** This regulation applies where an instruction to make deductions of specified amounts from the debtor's earnings or other income and payments to the trustee of the amounts so deducted is given by a debtor or trustee under section 32E(2) or (4) of the Act<sup>(1)</sup>.

(2) Except in the case of a subsequent variation under paragraph (7)—

(a) an instruction given by the debtor under section 32E(2) must be in Form 1; and

(b) an instruction given by the trustee under section 32E(4) must be in Form 2.

(3) On delivery of the instruction and while the instruction is in effect, the—

(a) person by whom the debtor is employed; or

(b) third person required to pay to the trustee money otherwise due to the debtor by way of income ("third person"),

must deduct the sum specified in the instruction on every pay day or day on which a payment is to be made to the debtor, as the case may be, and pay the sum deducted to the trustee as soon as it is reasonably practicable to do so.

(4) Where an employer or third person fails without good cause to make a payment due under an instruction, the employer or third person is—

(a) liable to pay on demand by a trustee the amount that should have been paid; and

(b) not entitled to recover from a debtor the amount paid to the debtor in breach of the instruction.

(5) An employer or third person may on making a payment due under an instruction charge a fee equivalent to the fee chargeable for the time being under section 71 (employer's fee for operating diligence against earnings) of the Debtors (Scotland) Act 1987<sup>(2)</sup> and deduct that fee from the balance due to the debtor.

(6) The trustee must, without delay after the end of the payment period for the debtor under section 32B, notify in writing any person who has received an instruction in accordance with paragraph (2) (or varied in accordance with paragraph (7)) that the instruction has been recalled.

(7) Following any change to the debtor's contribution, the debtor or trustee may give a variation instruction under section 32E(2) or (4) of the Act in accordance with that change to the instruction mentioned in paragraph (2) in Form 3 to the employer or third person.

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(1) Inserted by section 4 of the 2014 Act.

(2) 1987 c.18.

(8) In this regulation, references to Forms are to be construed as references to the form so numbered in Schedule 2 to these Regulations or a form substantially to the same effect, with such variation as circumstances may require.