

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Bankruptcy (Scotland) Act 2016 (“the 2016 Act”), the Debt Arrangement Scheme (Scotland) Regulations 2011 (“the DAS Regulations”) and the Bankruptcy Fees (Scotland) Regulations 2018 (“the Bankruptcy Fees Regulations”).

Regulation 2 amends section 2(2) of the 2016 Act to remove the minimum debt threshold of £1,500 required for sequestration of an estate to be carried out by debtor application (known as the “minimal asset process”).

The DAS Regulations provide for a scheme for the repayment of debts in Scotland (“the Debt Arrangement Scheme”). They provide for the procedure and forms in respect of a repayment arrangement under the scheme, which is described as a debt payment programme (“DPP”). Regulation 3(2) extends the circumstances under which a DPP may be varied. Regulation 3(3) updates Form 4 (application for variation of a debt payment programme) of the DAS Regulations.

Regulation 4(2) inserts a new regulation 7B in the Bankruptcy Fees Regulations which provides an exemption from debtor application fees for debtors assessed as having no surplus income. Regulation 4(3) amends the table of fees in the schedule of the Bankruptcy Fees Regulations. The fee payable for administration of a petition following award of sequestration where the Accountant in Bankruptcy is the trustee is £750 (replacing the fee of £300). The fee payable in respect of a debtor application in relation to a debtor to whom the minimal asset process under section 2(2) of the Act applies is removed. Regulation 4(4) provides a saving for petitions and applications for sequestration lodged before 6 February 2023.

A Business and Regulatory Impact Assessment has been prepared and is available online at www.legislation.gov.uk.