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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 397**

**The Bankruptcy (Scotland) Regulations 2016**

**PART 3**

**Debtor's contribution**

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

**20.**—(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 94(2) or (4) of the Act.

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

- (a) an instruction given by the debtor under section 94(2) must be in Form 19; and
- (b) an instruction given by the trustee under section 94(4) must be in Form 20.

(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 of the Debtors (Scotland) Act 1987<sup>(1)</sup> (employer's fee for operating diligence against earnings) 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 91 of the Act, 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 94(2) or (4) of the Act in accordance with that change to the instruction mentioned in paragraph (2) in Form 21 to the employer or third person.

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(1) 1987 c.18. A sum was specified in S.S.I. 2006/116.

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**Status:** *This is the original version (as it was originally made).*

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