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## EXPLANATORY NOTE

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

These Regulations amend the Taking Control of Goods (Fees) Regulations 2014 (“the Fees Regulations”) to clarify the application of VAT to the fees and disbursements in those Regulations and the recoverability of a sum equivalent to it, which is an enforcement cost, from the judgement debtor in particular circumstances, the details of which are set out below. In addition, the description of the charge in regulation 9(4) is amended to a fee instead of a disbursement.

Specifically, these Regulations amend the Fees Regulations as follows.

Regulation 2 is amended to define “sum equivalent to VAT” and “VAT”.

Regulation 4(1) is amended to provide that the sum equivalent to VAT is recoverable from the debtor in addition to the fees in the Schedule, in accordance with the Regulations, including regulation 18.

Regulation 4(2) is amended to provide that the sum equivalent to VAT can be recovered from proceeds.

Regulation 4(3) is amended to specify that the prescribed fees set out in the amended regulations that are applicable where a stage is not completed are recoverable from the debtor together with the sum equivalent to VAT on those fees.

Regulation 4(6) is added to make clear that the fees set out in the Schedule are exclusive of VAT.

Regulation 8(1) is amended to provide that the fees and disbursements in regulations 8, 9 and 10 are recoverable from the debtor together with the sum equivalent to VAT, in accordance with those Regulations and regulation 18.

Regulation 8(3) is amended to provide that the sum equivalent to VAT on those fees and disbursements may also be recovered from proceeds.

Regulation 9(4) is amended to correctly identify the sum therein as a fee, not a disbursement, recoverable in addition to the fees set out in the Schedule, with the consequential implications, including as to the application of VAT.

Regulation 9(5) is inserted to set out that the fee in regulation 9(4) is exclusive of VAT.

Regulation 13(4) is amended to provide that where the proceeds are less than the amount outstanding the sum equivalent to VAT may also be recovered from the debtor together with the fees and disbursements permitted under that regulation.

Regulation 14(2) is amended to provide that the fee in regulation 9(4) is not excluded from the requirement to provide a receipt.

Regulation 18(1) is inserted to provide that where a creditor is VAT registered the enforcement agent may not recover from the debtor VAT or the sum equivalent to VAT on the fees or disbursements in the Fees Regulations.

Regulation 18(2) is inserted to provide the sum equivalent to VAT is only recoverable from the debtor where the creditor is not VAT registered.

Regulation 18(3) is inserted to provide that the sum equivalent to VAT for the purposes of the regulations is a sum equivalent to VAT only on the fees in regulation 9(4) and the Schedule and the disbursements in regulations 8, 9 and 10.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.