

Bankruptcy and Diligence (Scotland) Bill — Stage 3

Section 1

Paul O’Kane

- 15 In section 1, page 1, line 5, leave out <may> and insert <must>

After section 1

Paul O’Kane

- 16 After section 1, insert—

<Debt arrears: creditor pre-action requirements>

Debt arrears: creditor pre-action requirements

- (1) The Scottish Ministers may by regulations make provision for pre-action requirements, where—
 - (a) the creditor intends to take debt recovery action,
 - (b) the creditor is a local authority, and
 - (c) the debtor is an individual.
- (2) Regulations under subsection (1) may (in particular) make provision about—
 - (a) information to be provided by a creditor to a debtor in relation to the debt,
 - (b) steps to be taken by a creditor to refer the individual to income maximisation services,
 - (c) steps to be taken by a creditor with a view to seeking to agree arrangements with a debtor for future payment of debt and any other outstanding financial obligation,
 - (d) such other matters as the Scottish Ministers consider appropriate.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.>

Section 6

Paul O’Kane

- 17 In section 6, page 10, line 42, at end insert—

<(1B) In section 73F (protection of minimum balance in certain bank accounts), after subsection (6), insert—

“(7) Before the end of each financial year, the Scottish Ministers must—

- (a) calculate the inflation-adjusted level of the protected minimum sum mentioned in subsection (3)(a), and
 - (b) bring forward regulations to replace the protected minimum sum where, in their opinion, the sum is materially below its inflation-adjusted level with a figure of at least that level (subject to any rounding they think appropriate).
- (8) Regulations under subsection (7) are subject to the affirmative procedure.”>

Murdo Fraser

18 In section 6, leave out subsection (2), and insert—

<() In section 73G (arrestee’s duty of disclosure), after subsection (5), insert—

“(6) Subsection (7) applies where—

(a) no property is attached, and

(b) the arrestee receives a request for information from a creditor in relation to a warrant not granted under summary warrant procedure.

(7) The arrestee must, as soon as reasonably practicable after the request is received, send to the creditor in (or as nearly as may be in) the form prescribed by the Scottish Ministers by regulations, information about the reason why no property is attached (for example, the arrestee does not hold funds standing to the credit of the debtor, or does hold such funds but the sum held is less than the sum mentioned in section 73F(3)(a)).”>

Section 7

Colin Smyth

19 In section 7, page 11, line 15, at end insert—

<() After section 49A, insert—

“49B Deductions allowing for household circumstances

(1) The debtor may make a request to the creditor for a sum lower than that specified in Schedule 2 to be deducted, where—

(a) a deduction from earnings above the minimum protected balance will continue to be made, and

(b) the request includes a statement from the debtor setting out why he considers that his household circumstances warrant a lower deduction to be made.

(2) Where a request has been made under subsection (1), the creditor must, within 21 days—

(a) consider the response, and

(b) issue a written decision to the debtor confirming that—

(i) the creditor agrees with the request and the sum to be paid, or

(ii) the creditor does not agree with the request.

(3) Where the creditor agrees to the debtor’s request, the creditor must notify the employer.

(4) The debtor may make a request under subsection (1) once in each period of 6 months.

(5) For the purposes of this section, “household circumstances” may include—

(a) any ongoing financial liabilities of the household,

(b) the number of dependent adults and children in the household,

(c) other household income, and

- (d) health issues of a member of the household.
- (6) The Scottish Ministers may by regulations modify subsection (5) by adding, removing or varying the meaning of household circumstances.”.>

Murdo Fraser

- 20 In section 7, page 12, line 33, after <nil,> insert <and,
() the person receives a request from a relevant person for information,>

Murdo Fraser

- 21 In section 7, page 12, line 34, leave out <within 21 days of the order or schedule being served> and insert <as soon as is reasonably practicable following receipt of the request>

After section 7

Colin Smyth

- 22 After section 7, insert—

<Earning arrestment

Earning arrestment

- (1) Schedule 2 of the Debtors (Scotland) Act 1987 is modified as follows.
- (2) For Table A (deductions from weekly earnings) substitute—

“Net Earnings	Deduction
Not exceeding £230.10	Nil
Exceeding £230.10 but not exceeding £368.34	£4 or 31% of earnings exceeding £230.10, whichever is the greater
Exceeding £368.34 but not exceeding £506.42	£42.85 plus 18% of earnings exceeding £368.34
Exceeding £506.52 but not exceeding £667.73	£67.72 plus 22% of earnings exceeding £506.62
Exceeding £667.73	£103.19 plus 45% of earnings exceeding £667.73”.

- (3) For Table B (deductions from monthly earnings) substitute—

“Net Earnings	Deduction
Not exceeding £1,000	Nil
Exceeding £1,000 but not exceeding £1,600	£15 or 31% of earnings exceeding £1,000, whichever is the greater
Exceeding £1,600 but not exceeding £2,200	£186 plus 18% of earnings exceeding £1,600

“Net Earnings	Deduction
Exceeding £2,200 but not exceeding £2,900	£294 plus 22% of earnings exceeding £2,200
Exceeding £2,900	£448 plus 45% of earnings exceeding £2,900”.

(4) For Table C (deductions from daily earnings) substitute—

“Net Earnings	Deduction
Not exceeding £32.87	Nil
Exceeding £32.87 but not exceeding £52.60	£0.50 or 31% of earnings exceeding £32.87, whichever is the greater
Exceeding £52.60 but not exceeding £72.36	£6.12 plus 18% of earnings exceeding £52.62
Exceeding £72.36 but not exceeding £95.39	£9.67 plus 22% of earnings exceeding £72.36
Exceeding £95.39	£14.74 plus 45% of earnings exceeding £95.39”.>