Economy and Fair Work Committee

SSI cover note

6th Meeting 2023, (Session 6), 1 March 2023

Title of Instrument:	**Diligence against Earnings (Variation) (Scotland) Regulations 2023**
Relevant Dates:	**laid 3 February 2023 coming into force 6 April**
Reporting deadline:	**N/A**
Type of instrument:	**Negative**

Parliamentary procedure

1. An instrument subject to negative procedure comes into force on the date specified in the instrument, unless a motion to annul is agreed to by the Parliament.

2. Under Rule 10.4 of Standing Orders, any motion to annul must be lodged within 40 days of the date the instrument was laid. Any member (whether a member of the lead committee or not) may lodge a motion. Further information on the negative procedure can be found on the Parliament's website.

3. No motion to annul has been lodged.

Background to the regulations

4. An earnings arrestment is a form of formal debt enforcement (or "diligence"). Diligence is only available to enforce court orders or other orders with the authority of the courts. An earnings arrestment enforces payment of a sum due to a creditor by making a deduction from the earnings of the person who has debt. The employer makes a deduction from the person's wages or salary and pays that amount to the creditor. An earnings arrestment will usually last until the debt is paid off.

5. Schedule 2 of the Debtors (Scotland) Act 1987 provides the statutory tables used to calculate the amount an employer must deduct when a person is subject to an earnings – or related - arrestment. The Scottish Government reviews and updates these tables every 3 years. The tables were last updated in 2021 by the Diligence against Earnings (Variation) (Scotland) Regulations 2021, when thresholds were increased in line with the growth in average earnings.

6. In a letter dated 21 December 2021, the Minister for Public Finance, Planning and Community Wealth advised that the Scottish Government was looking at what actions could be taken in response to the cost crisis and pressures on household budgets.

The Regulations are attached at **Annexe A**, the Policy Note is attached at **Annexe B** and a Business and Regulatory Impact Assessment is attached at **Annexe C**.

Purpose of the regulations

7. The purpose of the regulations is to update the figures contained in Part 3 of the Debtors (Scotland) Act 1987 ("the 1987 Act"). These figures relate to how much money an individual is allowed to keep before any payment can be taken from their wages to recover debts, and then sets the scale of what payments can be taken above that level.

8. These regulations increase protection for those in debt by raising the threshold beneath which deductions may not be taken from earnings by arrestment. It will also increase other thresholds on the scale meaning that, where debtors do have to make payments, they will be able to keep more of their earnings.

Correspondence

9. Alan McIntosh, of Advice Talks, has written to the Committee about the increases. His letter and further email are attached. He previously gave evidence to the Social Justice and Social Security Committee as part of its inquiry into low income and debt problems and raised his concerns there. Mr McIntosh notes that the minimum protected balance (the amount which cannot be seized by creditors in a bank account) has recently been increased from £567 to £1,000. He suggests that there needs to be a significant increase in the threshold below which no money can be taken in an earnings arrestment to create a comparable level of protection for people who are subject to this diligence.

10. The Social Justice and Social Security Committee recently wrote to the Scottish Government to follow-up issues from its inquiry. It is understood the Committee is seeking changes by way of primary legislation.

Delegated Powers and Law Reform Committee consideration

10. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 21 February 2023. Its report raised no points.

For decision

11. The Committee is invited to note the instrument.

Economy and Fair Work Committee Clerks
24 February 2023

SCOTTISH STATUTORY INSTRUMENTS

2023 No. 27

ENFORCEMENT

The Diligence against Earnings (Variation) (Scotland) Regulations 2023

Made - - - -	*1st February 2023*
Laid before the Scottish Parliament	*3rd February 2023*
Coming into force - -	*6th April 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 49(7)(a), 53(3) and 63(6) of the Debtors (Scotland) Act 1987(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Diligence against Earnings (Variation) (Scotland) Regulations 2023 and come into force on 6 April 2023.

Rate of deductions in diligence against earnings

2. In the Debtors (Scotland) Act 1987—

(a) in sections 53(2)(b) (deductions to be made under current maintenance arrestments) and 63(4)(b) (deductions to be made under conjoined arrestment orders), for "18.63"(**b**) substitute "21.56", and

(b) for Tables A, B and C of schedule 2(**c**) (deductions to be made under earnings arrestment), substitute respectively Tables A, B and C in the schedule of these Regulations.

TOM ARTHUR
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
1st February 2023

(**a**) 1987 c. 18. The functions of the Lord Advocate were transferred to the Secretary of State by S.I. 1999/678 and to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).
(**b**) This sum was most recently substituted by S.S.I. 2021/409.
(**c**) Tables A, B and C were most recently substituted by S.S.I. 2021/409.

SCHEDULE

Regulation 2(b)

TABLE A: DEDUCTIONS FROM WEEKLY EARNINGS

Net earnings	*Deduction**
Not exceeding £150.94	Nil
Exceeding £150.94 but not exceeding £545.57	£4.00 or 19% of earnings exceeding £150.94, whichever is the greater
Exceeding £545.57 but not exceeding £820.21	£74.98 plus 23% of earnings exceeding £545.57
Exceeding £820.21	£138.15 plus 50% of earnings exceeding £820.21

TABLE B: DEDUCTIONS FROM MONTHLY EARNINGS

Net earnings	*Deduction**
Not exceeding £655.83	Nil
Exceeding £655.83 but not exceeding £2,370.49	£15.00 or 19% of earnings exceeding £655.83, whichever is the greater
Exceeding £2,370.49 but not exceeding £3,563.83	£325.79 plus 23% of earnings exceeding £2,370.49
Exceeding £3,563.83	£600.25 plus 50% of earnings exceeding £3,563.83

TABLE C: DEDUCTIONS FROM DAILY EARNINGS

Net earnings	*Deduction**
Not exceeding £21.56	Nil
Exceeding £21.56 but not exceeding £77.93	£0.50 or 19% of earnings exceeding £21.56, whichever is the greater
Exceeding £77.93 but not exceeding £117.17	£10.71 plus 23% of earnings exceeding £77.93
Exceeding £117.17	£19.73 plus 50% of earnings exceeding £117.17

*When applying a percentage the calculation should be done to two decimal places of a penny and the result rounded to the nearest whole penny, with an exact half penny being rounded down.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to certain figures relating to diligence against earnings in Part 3 of the Debtors (Scotland) Act 1987 ("the Act").

Regulation 2(a) increases the figure in sections 53(2)(b) and 63(4)(b) of the Act, used to determine the sum to be deducted from earnings subject to current maintenance arrestment or conjoined arrestment order, from £18.63 to £21.56.

Regulation 2(b) substitutes new Tables A, B and C for those in schedule 2 of the Act which describe the deductions to be made from earnings subject to an earnings arrestment.

These increases have been calculated by reference to the inflation rate for the period between October 2020 and October 2022.

In accordance with sections 49(8), 53(4) and (5), 63(7) and (8) and 69(1) and (2) of the Act, these Regulations do not apply to existing diligences until the Regulations are intimated to employers, unless employers choose to apply them. If they do not choose to do so the figures substituted by previous regulations will continue to apply until intimation takes place.

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

POLICY NOTE

THE DILIGENCE AGAINST EARNINGS (VARIATION) (SCOTLAND) REGULATIONS 2023

S.S.I. 2023/27

1. The above instrument has been made in exercise of the powers conferred on Scottish Ministers by sections 49(7)(a), 53(3) and 63(6) of the Debtors (Scotland) Act 1987 (“the 1987 Act”). It is subject to the negative procedure.

Purpose of the instrument. It updates the figures contained in Part 3 of the Debtors (Scotland) Act 1987. These figures relate to how much money an individual is allowed to keep before any payment can be taken from their wages to recover debts, and then sets the scale of what payments can be taken above that level.

Policy Objectives

2. This instrument amends sections 53(2)(b) and 63(4)(b), and Schedule 2 of the 1987 Act and replaces the Diligence against Earnings (Variation) (Scotland) Regulations 2021 (S.S.I. 2021/409) (“the 2021 Regulations”), although that instrument is retained for transitional purposes.

3. This instrument will increase protection for those in debt by raising the threshold beneath which deductions may not be taken from earnings by arrestment.

4. Schedule 2 of the 1987 Act, as updated by successive Regulations, sets out the deductions made by employers when a person is subject to a diligence against earnings (earnings arrestment). It is usual practice to uprate these tables every three years, to maintain the right balance between debtor protection and effective enforcement action for creditors. The deduction tables were last updated in 2021. However, given the current cost crisis, reflected in high inflation over the last year, it has been decided that there is a need to uprate the tables before the expiry of the usual three-year period.

5. The figures contained in the 2021 Regulations were calculated based on the increase in average earnings, based on the Office for National Statistics Annual Survey of Hours and Earnings 2020. At that point, average earnings were rising at a higher rate than inflation and increasing the tables based on the increase in average earnings offered greater protection for those with debt. Since then, inflation has outstripped average earnings, so the figures contained in the current Regulations have been increased using the rate of CPI inflation for the period between October 2020 and October 2022.

7. The Regulations provide a mechanism to calculate deductions on a weekly, monthly and daily basis. To protect the lowest earners, a minimum deduction remains in place for weekly, monthly and daily earnings.

8. This means that someone subject to an earnings arrestment would have deductions taken if they earn more than £150.94 weekly rather than the current level of £130.73, or £655.83 monthly rather than £566.51.

9. The rate used to set the amount to be deducted from earnings subject to maintenance arrestment and conjoined arrestment orders will increase from £18.63 to £21.56. This aligns with the lower daily threshold for earnings arrestments.

Consultation

10. The amendments made by this instrument are intended to make minor uprating changes to sections 53 and 63 and Schedule 2 of the 1987 Act. No formal public consultation has been carried out but Accountant in Bankruptcy has published advance notice of the proposal to increase the thresholds by inflation on its website and circulated to stakeholders in order for them to provide feedback on the impact of the changes. Advice has been taken from a statistician from the Scottish Government's Statistician Group. Most earnings arrestments are made in response to council tax debt, so informal consultation has also been undertaken with CoSLA and the Institute of Revenues Rating and Valuation (IRRV). Informal consultation has also been undertaken with the Scottish Courts and Tribunal Service (SCTS) who utilise the tables for fine enforcement where a criminal fine has an earnings arrestment attached to it.

Impact Assessments

11. A BRIA has been completed on the effects of the instrument and has been published when this instrument was laid before the Parliament. A copy can be found on Legislation.gov.uk.

12. No equality issues were raised as part of the informal consultation process and it is considered that a full Equality Impact Assessment is not required. The changes apply to all irrespective of particular protected characteristics and are introduced to protect those struggling with debt and subject to an earnings arrestment by increasing the threshold where deductions can be taken from their earnings.

13. In view of the Fairer Scotland Duty regarding socio-economic inequalities which exists under the Equality Act 2010, the impact of these proposals on those with low wealth and low income has been considered. The proposed changes will offer greater protection for those struggling with debts by increasing the threshold beneath which deductions may not be taken from earnings by arrestment. To protect the lowest earners, a minimum deduction remains in place for weekly, monthly and daily earnings.

Financial Effects

14. A regulatory business impact assessment has been prepared. The changes introduced by this instrument are not expected to have any significant financial impact on the Scottish Government or Scottish businesses, as the regulations will take effect at the beginning of the financial year, in line with the yearly updates to payroll systems.

Accountant in Bankruptcy
January 2023

Final
Business and Regulatory Impact Assessment

Title of Proposal
The Diligence against Earnings (Variation) (Scotland) Regulations 2023

Purpose and intended effect

Objective
To update the figures contained in Part 3 of the Debtors (Scotland) Act 1987. These figures relate to how much money an individual is allowed to keep before any payment can be taken from their wages to recover debts, and then sets the scale of what payments can be taken above that level.

Background
The diligence against earnings arrestment is designed to enforce payment of a sum due to a creditor by making a deduction from the earnings of the person who has debt. The employer makes a deduction each pay day from the person's wages or salary and pays that amount to the creditor. Schedule 2 of the Debtors (Scotland) Act 1987 ("the 1987 Act") provides the statutory tables used to calculate the amount an employer must deduct when a person is subject to diligence against earnings. The Scottish Government has reviewed and updated the deduction tables every three years since 2006. The tables were last updated by the Diligence against Earnings (Variation) (Scotland) Regulations 2021, when the thresholds were increased in line with the growth in average earnings.

In light of the cost crisis, the Scottish Government has decided that the exceptional pressure on household budgets justifies bringing forward an increase before the expiry of the usual three-year period. It has been decided that this increase should be based on the rate of CPI inflation for the period between October 2020 and October 2022 given that inflation has outstripped average earnings. This means that someone subject to an earnings arrestment would have deductions taken if they earn more than £150.94 weekly rather than the current level of £130.73, or £655.83 monthly rather than £566.51.

Rationale for Government intervention
To ensure the legislation continues to strike the right balance and fairness between those who are owed money and those who have debt.

These regulations contribute to the Scottish Government Purpose; to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. These are aligned by the delivery of the following national outcomes:

- **We have thriving and innovative businesses, with quality jobs and fair work for everyone.**
- **We tackle poverty by sharing opportunities, wealth and power more equally.**
- **We have a globally competitive, entrepreneurial inclusive and**

sustainable economy.

Consultation

Within Government
We consulted statisticians from the Scottish Government's Statistician Group to review the Arrested Earnings deduction tables.

Public Consultation
No public consultation was undertaken in relation to the Diligence against Earnings (Variation) (Scotland) Regulations 2023 as there is an established regular process to keep these figures up to date. Earnings arrestments, including powers to vary the figures, are provided for by the Debtors (Scotland) Act 1987. Informal consultation was undertaken with CoSLA and the Scottish Courts and Tribunal Service (SCTS).

Business
We held no face-to-face discussions with businesses. We published advance notice of the proposal to increase the thresholds based on inflation on the AiB website. We also circulated this to stakeholders so that they could provide feedback on the impact of the changes. This SSI is not expected to be controversial.

Options
Option 1 - No change

To adopt the no change option and continue with the current deductions would not require a change in legislation, and the status quo would be maintained for those subject to arrestment and those involved in administering arrestment.

Sectors and groups affected
The no change option would mean that a person subject to an arrestment would not be subject to any increase or decrease in deductions, although the rise in inflation means they effectively have less spending power.

Benefits
Retaining the status quo would mean that the current deduction tables continue to apply and employers would not have to update their automated payroll systems to accommodate any changes.

There would be no need for a person subject to an arrestment to make budgetary adjustments as there will be no change in deductions from earnings. Those subject to deductions from their earnings for child support payments would continue to have the same protected daily rate applied.

Where there is a conjoined arrestment order in place (where 2 or more debts are being repaid through an earnings arrestment at the same time) the SCTS ingathers the funds from the employer, calculates the sum due to each creditor and distributes the funds to the creditors. Therefore, no change in the rates would mean there is no need for the SCTS to issue revised tables or instructions to sheriff clerks.

Costs

There is a danger that failing to provide adequate financial protection for those subject to earnings arrestments may make payments unsustainable, leading the individuals further into financial distress and potentially reducing the overall level of funds returned to creditors if individuals are forced into bankruptcy.

Option 2 – Update the figures

Within this option, there are many possible methods for calculating potential increases. When the figures were last updated they were calculated on the basis of increase in average earnings. However, since then inflation has outstripped average earnings. Accordingly, CPI inflation has been chosen as the most appropriate method as it is the clearest indicator of the cost crisis. This is considered a logical approach because it maintains the real value of the thresholds, and gives a clear point from which future increases could be calculated. The current level of CPI inflation and the impact it is having on households provides sufficient justification to move away from the established process of increasing the thresholds every three years.

Sectors and groups affected

The proposed changes to the figures in part 3 of the Debtors (Scotland) Act 1987 will impact on the following sectors and groups: people who have debt, those who are owed money, payroll software developers, employers, banks and Sheriff Court clerks.

Benefits

By adopting this model, all people subject to an earnings arrestment will see an increase in the amount of their earnings they keep before payments towards their debts are deducted. For a small number of people on low incomes, deductions from earnings will cease.

Costs

There is no cost to the Scottish Government to implement this option, however, it is recognised that there is potentially a small cost to employers. Introducing these changes from April 2023, to coincide with annual payroll system updates, would minimise these costs.

Any changes to the tables will affect employers who will need to instruct their software developers to programme the details of the new model as part of their annual software update. These software changes have been shared with software developers and will be absorbed into normal updates made by employers to payroll systems to accommodate the new tax year. Software providers have previously been supportive of the changes we made to the format of the tables, as amendments to systems are straightforward, provided they have sufficient notice before the start of the financial year. We understand that providers need only change around 12 lines of data in their programming.

Where there is a conjoined arrestment order in place, the SCTS ingathers the funds from the employer, calculates the sum due to each creditor and distributes the funds to the creditors. Therefore, a change in the deduction tables will require the SCTS clerks to recalculate funds ingathered. We have spoken to the SCTS and they are ready to implement these changes if the Regulations are passed.

Scottish Firms Impact Test
As previously mentioned, we held no face to face discussions with businesses. Prior to the Diligence against Earnings (Variation) (Scotland) Regulations 2023 being laid in the Scottish Parliament we circulated the proposed changes to stakeholder groups representing those who may be affected by these Regulations.

Competition Assessment
Having considered the Competition and Markets Authority (CMA) competition assessment questions I can confirm that these changes will apply equally to all who engage with the regulations. There should be no competitive advantage to any particular individual or group as a consequence of the introduction of the regulations.

Will the proposal directly limit the number or range of suppliers? No
Will the proposal indirectly limit the number or range of suppliers? No
Will the proposal limit the ability of suppliers to compete? No
Will the proposal reduce suppliers' incentives to compete vigorously? No

Test run of business forms
No new business forms have been introduced.

Legal Aid Impact Test
The Scottish Legal Aid Board (SLAB) anticipates that the impact of uprating the statutory deductions from the earnings tables on the Legal Aid Fund will be minimal. Earnings arrestment's are currently being used to recover debt to the Legal Aid Fund, totalling around £60,000. The uprated tables will mean that it will take longer for the debt to be repaid and in some circumstances it may mean that the earnings arrestment fails if an individual's earnings are below the statutory threshold.

Enforcement, sanctions and monitoring
The Accountant in Bankruptcy, an agency of the Scottish Government, has responsibility for the legislation relating to earnings arrestment. On receipt of an earnings arrestment schedule the debtor's employer must enforce the terms of the earnings arrestment. Section 57 of the Debtors (Scotland) Act 1987 details the action to be taken where an employer fails to comply with the regulations.

Sheriff Officers, in accordance with section 84 of the Debtors (Scotland) Act 1987, will submit to the Scottish Government, on a quarterly basis, statistical data on the use of the diligence of arrestment. This will allow the Scottish Government to monitor the use of this diligence and identify any trends that may require further investigation.

Implementation and delivery plan
If approved by Parliament, the Diligence against Earnings (Variation) (Scotland)

Regulations 2023 will be brought into force on the 6 April 2023. The Accountant in Bankruptcy will publish the introduction of the regulations on its website. The new statutory tables will also be incorporated in the legislation published on the legislation.gov.uk website.

Post-implementation Review

Inflation is expected to fall back next year, and so our initial planning is that we will revert to reviewing these figures every 3 years. Therefore, the next review will be undertaken in 2025. This will, however, depend in part on the path of the cost crisis.

In addition to the above, the Scottish Government, will analyse, on a yearly basis, the statistical data supplied by Sheriff Officers on diligence against earnings, to identify any trends that may require further investigation. The Scottish Government will review the findings of this investigation and consider whether any changes are necessary to the regulations or associated guidance in light of its findings. Any changes identified will be brought to the attention of the Scottish Parliament and Parliamentary Committees where necessary.

Summary and recommendation

The recommended option is option 2.

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social policy and administrative
1	For those who interact with this legislation there would be no change.	No financial costs would be incurred at this point, but some earnings arrestments may become unsustainable.
2	Increasing thresholds by CPI inflation over the last two years maintains the real value of the protections for those subject to earnings arrestments.	There is no financial cost to the Scottish Government and potentially a small financial cost to employers. It is anticipated that the changes can be incorporated in the annual payroll systems update, thereby minimising costs.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: TOM ARTHUR

Date: 1st February 2023

Minister's name Tom Arthur

MSP
Minister's title Minister for Public Finance, Planning and Community Wealth

Scottish Government Contact point:

Carol Kirk
Policy Development Team
Leader
Accountant in Bankruptcy

AdviceTalks

28th December 2022

Claire Baker
Convenor
Economy and Fair Work Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Claire

Re: Proposed Diligence Against Earnings (Variations) Regulations

I am writing to raise my concerns in relation to proposals contained in a letter sent to the Committee on the 21st of December 2022, by the Minister of Public Finance, Planning and Community Wealth, Mr Tom Arthur MSP.

These relate to proposal to lay new Diligence against Earnings (Variation) Regulations. These regulations relate to increasing the Protected Minimum Amount (PMA) in Earning Arrestments.

Mr Arthur has proposed increasing the PMA in Earning arrestments from £566.51 to £655.83. This means this will be the amount people will be able to receive through their net wages before the first taper of 19% is applied to calculate how much that person's employer must deduct from their wages to pay to their creditors.

So, for example, if someone is currently in receipt of net wages of £1,000, at present £82.36 can be deducted ((£1,000-£566.51) x19%). If the PMA is increased to £655.83, this amount will reduce to £65.39 ((£1,000-£655.83) x 19%). A difference of £16.97.

The methodology that is used to calculate what the increase in the PMA in an Earning Arrestment should be is normally to take the average last 3 years CPI rate of interest and increase the PMA by that amount or, if higher, increase by the average rate that earnings have been inflated by over the same period. This is normally done every 3 years and was last done in April 2022.

I am grateful that the Minister has decided to depart from this practice, due to the cost-of-living crisis and bring forward further uprating in April 2023. I, however, don't believe what is being proposed is adequate.

There is an obvious flaw in the above methodology in setting the PMA for earning arrestments that has seen this type of diligence over the last 14 years becoming harsher, which hurts most those on lower incomes.

Take the example of someone earning £1,000 net each month (after deductions for Income Tax, National Insurance and pension contributions have been taken). If you increase the PMA of £566.51 by 15.77%, then the new PMA will be £655.83. However, as can be seen from the above example, this only results in the amount being taken from someone's wages falling by £16.97, even though if their expenditure was £1,000, they may have seen their expenditure increase by £157 per month (15.77% of £1,000).

Clearly if such a methodology continues over time without any corrections being made out with the normal methodology, then over time earning arrestments will become harsher and those on lower incomes will become poorer, possibly struggling to pay other essential bills, and getting caught in a low-income debt trap.

It would appear sensible if the methodology cannot be changed, there must periodically be a manual correction made by applying a flat rate increase, like the way such increases are used periodically in relation to public sector wages increases, to avoid a growing differential between the lowest and highest paid employees, which can occur over time when wage rises are based on a flat rate percentage increase.

I would argue such a flat rate increase to the Protected Minimum Amount in Earning Arrestments is now justified, as I am not aware of any such increase since 2008, when the PMA was introduced. So logically over the last 14 years Earning Arrestments have become harsher.

I believe the correct amount for this increase should be £433.49 to increase the amount to £1,000. This would bring the PMA into line with the Protected Minimum Balance in Bank Account arrestments, which was increased from £566.51 to £1,000 on the 1st November 2022 and brough that amount into line with the minimum amount someone is allowed to keep in a bankruptcy without the funds vesting with the Trustee in Bankruptcy.

Such a position, I understand was supported by myself, Citizen Advice Scotland, Money Advice Scotland, Stepchange and Christians against Poverty who also gave evidence earlier this year to the Social Justice and Social Security Committee enquiry into low income and debt.

I also believe this would be a sensible approach, bearing in mind we can expect energy prices to increase again in April 2023, we appear to be in a cycle of rising interest rates and inflation is still running at over 10%.

I hope you will agree with me and convey this view in your reply to the Minister, but should he lay the regulations using the PMA figure he has proposed to you in his letter, I would respectfully request that you hear evidence on this matter from a wider group of stakeholders.

It may not be possible to amend regulations, but I feel it would be appropriate in relation to this matter, considering the cost-of-living crisis, that the Minister should be asked why he does not feel a flat rate increase would be appropriate at this time.

Yours sincerely

Alan McIntosh
Managing Director

The Scottish Parliament
Pàrlamaid na h-Alba

Economy and Fair Work Committee

Alan McIntosh
Managing Director
Advice Talks

The Scottish Parliament
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Sent by email only

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30 January 2023

Dear Mr McIntosh

Thank you for getting in touch about the proposals in the Minister of Public Finance, Planning and Community Wealth's letter to the Committee of 21 December. I apologise for the delay in replying.

As you note, the regulations have not yet been laid, however I understand they are due to be laid shortly. Once laid, they will be subject to the "negative" procedure which means they will come into force unless annulled by the Parliament. They will be considered by the Delegated Powers and Legislative Reform Committee and then considered by the relevant subject committee, which is likely to be this Committee.

Once the Regulations are laid, and the Committee has sight of what is proposed, I will bring your letter to the Committee's attention. It will then be for the Committee to decide what action, if any, it wishes to take. I have noted your suggestions.

Meantime, I would ask you to raise your concerns with the Scottish Government. If you have already done this, I would be grateful for sight of any response you received.

Kind regards

Claire Baker

Claire Baker MSP
Convener

From: Advice Talks
To: Economy and Fair Work
Subject: RE: Diligence against Earnings (Variation) Regulations (Draft).
Date: 21 February 2023 13:13:27

Dear Eve

I did not write to the Scottish Government, as the Accountant in Bankruptcy, who advises the Minister on these matters is well aware of the issues I have raised.

Equally, they will have been aware of the views that were expressed by Citizen Advice Scotland and Money Advice Scotland on this matter when they gave evidence to the Social Justice and Social Security Committee on this point during their investigation into Low Income and Debt last year.

I appreciate Regulations cannot be amended and I would not want these Regulations to be withdrawn, and then not resubmitted, if the Minister was not minded to resubmit them in an amended form.

However, I do believe the issue of Earning Arrestments and how much is being taken is an important one, especially as we are likely to see energy bills rise by 41% in April and average Council Tax bills rise by 5%. This does not include the rising housing costs many will be struggling with due to rises in interest.

I am in no doubt, as a result, for tens, if not hundreds of thousands of people with Earning Arrestments, their financial situation will be made materially worse from April.

We will see more people defaulting on other debts, including next years Council Tax, where they have wage arrestments in place, many for previous Council Tax years, trapping them further in a vicious cycle of debt, which will see them incur further fees and charges.

The Scottish Government can do more to help people and the proposal to increase the Protected Minimum Amount in Wage arrestments to £1,000 (bringing it into line with bank account arrestments) is just one, relatively modest step that we could take. It could see many people with Earning Arrestments being up to £82 better off each month. Many of these households are households with the lowest incomes.

I appreciate and understand the correct balance has to be struck between the rights of creditors and debtors, however, I fail to see how the interest of the general body of creditors is served, if we adopt policies that see hardship on debtors increase and force them into defaulting on other debts. The financial contagion of failure only spreads to other creditors. This cannot be in the public interest.

Yours sincerely

Alan McIntosh

Approved Money Adviser

AdviceTalks