

EXECUTIVE NOTE

THE HOME OWNER AND DEBTOR PROTECTION (SCOTLAND) ACT 2010 (COMMENCEMENT) ORDER 2010 (S.S.I. 2010/314 (C. 16))

The above instrument is made in exercise of the powers conferred by section 17(3) and (4) of the Home Owner and Debtor Protection (Scotland) Act 2010 (“the 2010 Act”).

Policy Objectives

The purpose of the Home Owner and Debtor Protection (Scotland) Act 2010 (Commencement) Order 2010 is to allow for the commencement of the provisions of the Home Owner and Debtor Protection (Scotland) Act 2010.

The Order sets out that the appointed day for the coming into force of sections 1 to 6 and 8 of the Act is 30 September 2010 and the appointed day for the coming into force of section 7 of the Act is 3 October 2010. The appointed day for the coming into force of amended regulation, making powers in relation to trust deeds and new regulation making powers in relation to certificates of sequestration is 7 September 2010, and the appointed day for the coming into force of the whole of Part 2 of the Act, insofar as not then in force, is 15th November 2010.

Consultation

There was no statutory requirement to consult on this Order and we did not feel that any consultation was necessary, given that stakeholders were aware of the commencement dates throughout our consultation on the various provisions of the 2010 Act.

Financial Effects

The Order does not have any financial effects that were not previously anticipated when the 2010 Act was enacted.

A Business Regulatory Impact Assessment was prepared for the Lay Representation in Proceedings relating to Residential Property (Scotland) Order 2010 and the Applications by Creditors (Pre-Action Requirements) (Scotland) Order 2010, where full details of the costs and benefits of the new provisions are set out. These costs and benefits were indicated when those Orders were laid before Parliament in June. A Business Regulatory Impact Assessment was also prepared for Protected Trust Deed (Scotland) Amendment Regulations 2010 and the Bankruptcy (Certificate for Sequestration) (Scotland) Regulations 2010, where full costs and benefits of the new provisions are set out.

The purpose of this Order is to appoint the days on which the provisions of the 2010 Act, which did not come into force on Royal Assent, will come into force. There is

no additional financial impact on the Scottish Executive, local government or on business. As a result a Regulatory Impact Assessment is not required.