



# Debtors (Scotland) Act 1987

## 1987 CHAPTER 18

### PART III

#### DILIGENCE AGAINST EARNINGS

##### *Earnings arrestments*

#### **49 Deductions from net earnings to be made by employer.**

- (1) The sum to be deducted under section 47 of this Act on any pay-day shall be—
- (a) where the debtor's earnings are payable weekly, the sum specified in column 2 of Table A in Schedule 2 to this Act opposite the band in column 1 of that Table within which his net earnings payable on that pay-day fall;
  - (b) where his earnings are payable monthly, the sum specified in column 2 of Table B in that Schedule opposite the band in column 1 of that Table within which his net earnings payable on that pay-day fall;
  - (c) where his earnings are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—
    - (i) calculating what would be his weekly or monthly net earnings by dividing the net earnings payable to him on the pay-day by that whole number (of weeks or months, as the case may be);
    - (ii) ascertaining the sum specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in Schedule 2 to this Act opposite the band in column 1 of that Table within which the notional net earnings calculated under subparagraph (i) above fall; and
    - (iii) multiplying that sum by the whole number (of weeks or months, as the case may be).
- (2) Where the debtor's earnings are payable at regular intervals other than at intervals to which subsection (1) above applies, the sum to be deducted on any pay-day under section 47 of this Act shall be arrived at by—

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*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

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- (a) calculating what would be his daily net earnings by dividing the net earnings payable to him on the pay-day by the number of days in the interval;
  - (b) ascertaining the sum specified in column 2 of Table C in Schedule 2 to this Act opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (a) above fall; and
  - (c) multiplying that sum by the number of days in the interval.
- (3) Where the debtor's earnings are payable at irregular intervals, the sum to be deducted on any pay-day under section 47 of this Act shall be arrived at by—
- (a) calculating what would be his daily net earnings by dividing the net earnings payable to him on the pay-day—
    - (i) by the number of days since earnings were last paid to him; or
    - (ii) if the earnings are the first earnings to be paid to him by the employer, by the number of days since he commenced his employment with the employer;
  - (b) taking the sum specified in column 2 of Table C in Schedule 2 to this Act opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (a) above fall; and
  - (c) multiplying that sum by the number of days mentioned in paragraph (a) above.
- (4) Where on the same pay-day there are paid to the debtor both earnings payable at regular intervals and earnings which are not payable at regular intervals, for the purpose of arriving at the sum to be deducted on that pay-day under section 47 of this Act, all those earnings shall be aggregated and treated as earnings payable at the regular interval.
- (5) Where earnings payable to a debtor at regular intervals are paid to him on one pay-day and earnings which are not payable at regular intervals are paid to him on a different pay-day, the sum to be deducted on each of those pay-days under section 47 of this Act in respect of those earnings which are not paid at regular intervals shall be 20 per cent. of the net earnings paid to him on that pay-day.
- (6) Where earnings are paid to a debtor by 2 or more series of payments at regular intervals—
- (a) if the intervals are of different lengths—
    - (i) for the purpose of arriving at the sum to be deducted under section 47 of this Act, whichever of subsections (1) and (2) above is appropriate shall apply to the series with the shortest interval; and
    - (ii) in relation to the earnings paid in any other series, the said sum shall be 20 per cent. of the net earnings;
  - (b) if the intervals are of the same length and payments in more than one series are payable on the same day—
    - (i) the payments in those series shall be aggregated and whichever of subsections (1) and (2) above is appropriate shall apply to the aggregate; and
    - (ii) paragraph (a)(ii) above shall apply to every other series;
  - (c) if the intervals are of the same length and no 2 payments are payable on the same day paragraph (a)(i) above shall apply to such series as the employer may choose, and paragraph (a)(ii) above shall apply to every other series.
- (7) The Lord Advocate may, by regulations, vary—
- (a) Tables A, B and C of Schedule 2 to this Act;

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- (b) the percentage specified in subsections (5) and (6)(a)(ii) above,  
and such regulations may make different provision for different cases.
- (8) Subject to section 69(1) and (2) of this Act, regulations under subsection (7) above shall not apply in relation to an existing earnings arrestment unless and until the creditor or the debtor intimates the making of the regulations to the employer in the form prescribed by Act of Sederunt.

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