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## EXPLANATORY NOTE

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

These Regulations, which apply to England, Wales and Scotland, make provision for the treatment of rights under certain pension arrangements in the event of a person's bankruptcy.

Part I of these Regulations provides for citation, commencement, extent and interpretation.

Part II, which consists of regulations 2 to 10, applies to England and Wales.

Regulation 2 prescribes pension arrangements which qualify as "prescribed pension arrangements" for the purposes of section 11(2)(h) of the Welfare Reform and Pensions Act 1999 thereby excluding any rights of a bankrupt under such arrangements from his estate by virtue of section 11(1) of that Act.

Regulation 3 specifies pension arrangements which qualify as "unapproved pension arrangements".

Regulation 4 sets out the ways in which an unapproved pension arrangement can be excluded from a bankrupt's estate.

Regulation 5 provides, in relation to a prescribed "unapproved pension arrangement", for the making of an "exclusion order" excluding the rights of a bankrupt under such an arrangement from his estate. Paragraph (1) sets out the time limits for applying to the court for such an order. Paragraph (3) specifies the matters to be considered by the court in deciding whether or not to make such an order.

Regulation 6 provides, in relation to a prescribed "unapproved pension arrangement", for the making of a "qualifying agreement" between the bankrupt and the trustee in bankruptcy excluding the rights of a bankrupt under such an arrangement from his estate. Paragraph (1) sets out the time limits for the making of such an agreement. Paragraph (2) specifies the form and content of a "qualifying agreement". Paragraph (3) provides, in certain circumstances, for the revocation of such an agreement by the trustee in bankruptcy by giving the bankrupt a "notice of revocation" and paragraph (4) specifies the form and content of such a notice.

Regulation 7 provides for the calculation and verification of the cash equivalent of a bankrupt's rights under an "approved pension arrangement", or his excluded rights under an "unapproved pension arrangement", for the purpose of enabling the court to determine whether to make an order ("a restoration order") under section 342A of the Insolvency Act 1986.

Regulation 8 provides that where a "restoration order" has been made, the person responsible for the pension arrangement in question must comply with that order within the prescribed time.

Regulation 9 provides for the calculation and verification of the cash equivalent of a person's pension rights where those rights are derived directly, or indirectly, from a pension-sharing transaction.

Regulation 10 specifies the periods within which the person responsible for the pension arrangement in question has to comply with a request for information.

Part III, which consists of regulations 11 to 19, applies to Scotland.

Regulation 11 applies regulation 2 to Scotland.

Regulations 12 to 15 provide for the making of exclusion orders and qualifying agreements in relation to "unapproved pension arrangements" in like manner to the provisions which apply to England and Wales by virtue of regulations 3 to 6.

Regulations 16 and 18 provide for the calculation and verification of cash equivalents of a debtor's or a transferee's rights under an "approved pension arrangement", or his excluded rights under an

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“unapproved pension arrangement”, on a similar basis to that which applies in England and Wales in respect of a bankrupt’s rights by virtue of regulations 7 and 9.

Regulation 17 is the equivalent of regulation 8.

Regulation 19 is the equivalent of regulation 10.

Regulation 1(4)(c), which applies specifically to Scotland, provides that in regulations 12 to 15 and 19 “debtor” includes a solicitor on whose estate a judicial factor has been appointed under section 41 of the Solicitors (Scotland) Act 1980.

These Regulations have only a negligible cost for business: a Regulatory Impact Assessment is not therefore necessary.