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Claire Baker
Convener
Economy and Fair Work Committee
By email:
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Dear Convener

You will be aware from the Committee's consideration of the Bankruptcy and Debt Arrangement Scheme (Miscellaneous Amendment) (Scotland) Regulations 2023 that I have been keen to explore legislative avenues within my portfolio that can help provide greater financial resilience for those dealing with problem debt. The Scottish Government has already taken positive action, for example through the £12.5 million allocation this year to ensure people are able to access the advice information and support they need to maximise their incomes. However, I am acutely aware that the cost crisis and the prospect of continuing high inflation and increasing rates of interest will have a disproportionate impact on the most financially vulnerable. I look forward to discussing this instrument at the Committee session on 21 December.

I have been considering further action that can be taken and considering the specific issues involved, I felt it necessary to write to the Committee in advance of bringing forward Regulations. You will know that the two most common forms of diligence used by creditors in Scotland to recover debts are bank arrestments and earnings arrestments. We have already increased the protected minimum balance in bank arrestments to £1000 from 1 November 2022 – it is now time to move on to consider earnings arrestments. You may recall that earnings arrestments were amongst the issues considered by the Social Justice and Social Security Committee in its [Robbing Peter to pay Paul: Low Income and the Debt Trap](#) report. Although more radical changes to the system would take both detailed time to work up and require a much fuller consultation, I hope you would agree that increasing the thresholds is of itself a significant step towards resolving the concerns raised in the evidence they heard. We will continue to work on assessing the options for significant changes and I will update the Committee in due course.

In brief, the statutory debt recovery (diligence) procedures in Scotland allow for the recovery of debt through an earnings arrestment in which deductions from an individual's salary to pay

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debt can be enforced following court action taken by a creditor. Regulations set out how much of that salary the individual is allowed to keep before any payment can be taken and sets the scale at which payments can be taken above that level.

There has been a process in place to uprate the salary levels on a 3 yearly basis – the latest amending Regulations were laid in 2021 with new salary thresholds coming into force from 6 April 2022. The process of a 3 yearly review has been considered reasonable and proportionate, particularly where rates of inflation have been stable and at relatively low levels. However, given the prevailing rate of inflation and current cost crisis issues, there is a strong argument to conduct a further uprating of the tables now to provide some additional financial resilience to those subject to an earnings arrestment.

I plan to bring forward amending Regulations that will uprate the earnings arrestment tables using the CPI inflation rate for the two years period up until October 2022 – this would be the highest and most recent figure available. As you know, we have previously increased these thresholds either by CPI or at the rate of average earnings' growth, whichever is the higher. As an example, for the lowest earnings threshold, this would increase the monthly salary level that would need to be in place before any deduction could be taken from £566.51 to £655.83, with effect from 6 April 2023.

The reason for this letter to the Committee is that timing is key on this particular issue. Changes would come into effect from April 2023, and this requires early notification to employers and payroll software developers to ensure that systems are in place to ensure smooth operational delivery. While this notice would be required in advance of the consideration of legislation, I do consider that this is an appropriate and necessary action to take given the circumstances we face.

Yours sincerely



TOM ARTHUR

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