

These notes relate to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) which received Royal Assent on 15 January 2007

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

Part 1 – Bankruptcy

Miscellaneous and general

Section 27 – Continuation of sequestration proceedings

90. [Section 27](#) makes amendments to section 12 of the 1985 Act.
91. Under new subsection (3B) of that section, the sheriff can continue a creditor petition for sequestration for any period up to a maximum of 42 days if the debtor is able to demonstrate to the court that they will be able to pay or satisfy the petitioning creditor's debt, and any other debts due to creditors concurring in the petition, within that time.
92. [Section 27](#) also inserts a new subsection (3B) into that section which gives a sheriff the option of continuing a creditor petition for sequestration if the sheriff is satisfied that a debt payment programme (DPP) is pending under the debt arrangement scheme (set up under the 2002 Act).
93. If a debtor attends court to show cause why sequestration should not be awarded, and can provide sufficient evidence that a DPP application is ongoing or is about to be made, the sheriff has the power under subsection (3C) to delay awarding sequestration for as long as the sheriff thinks is necessary. Under section 4(3) of the 2002 Act a creditor is barred from petitioning for sequestration in respect of a debt which is covered by a DPP. So if the DPP is approved during the period of continuation granted by the sheriff under new subsection (3C) it would then be incompetent to sequestrate the debtor on that petition.