

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 5 – Inhibition

Effect

Section 150 – Property affected by inhibition

423. **Section 150(1)** provides that inhibition may affect any heritable property. This is subject, however, to section 153, which limits the property that may be affected by an inhibition in certain cases.
424. Subsection (2) provides that any rule of law authorising inhibition against any other category of property is abolished. In particular, the rule that inhibition may affect property which may be subject to the diligence of adjudication (which is not limited to heritable property) is abolished by this provision.
425. Subsection (3) states that property is acquired on the day the deed transferring the property is delivered. For the purposes of subsection (1) this means that, where a person has a deed delivered to them which transfers ownership of a house to them, an inhibition executed against that person will affect the house even if the person's title to the house has yet to be registered. This subsection also applies to section 157 of the Titles to Land Consolidation (Scotland) Act 1868 which states that inhibition does not affect property acquired by a debtor after the inhibition is executed. So if inhibition is executed before the day that a deed transferring a house is delivered, the house will not be affected by the inhibition.