



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 5

INHIBITION

Creation

146 Certain decrees and documents of debt to authorise inhibition without need for letters of inhibition

- (1) Inhibition in execution is competent to enforce—
 - (a) payment of a debt constituted by a decree or document of debt;
 - (b) subject to subsection (2) below, an obligation to perform a particular act (other than payment) contained in a decree.
- (2) Inhibition under subsection (1)(b) above is competent only if the decree is a decree—
 - (a) in an action containing an alternative conclusion or crave for payment of a sum other than by way of expenses; or
 - (b) for specific implement of an obligation to convey heritable property to the creditor or to grant in the creditor's favour a real right in security, or some other right, over such property.
- (3) In section 3 of the Writs Execution (Scotland) Act 1877 (c. 40) (warrant in extract writ to authorise diligence), after paragraph (b) insert—
 - (ba) in relation to an ordinary debt within the meaning of the Debtors (Scotland) Act 1987, inhibition against the debtor;”.
- (4) In section 7(1) of the Sheriff Courts (Scotland) Extracts Act 1892 (c. 17) (warrant in extract decree to authorise diligence), after paragraph (b) insert—
 - (ba) in relation to an ordinary debt within the meaning of the Debtors (Scotland) Act 1987, inhibition against the debtor;”.
- (5) In section 87(2) of the 1987 Act (warrant in extract decree to authorise diligence), after paragraph (b) insert—

Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 146. (See end of Document for details)

“(ba) in relation to an ordinary debt, inhibition against the debtor;”.

- (6) It is not competent for the Court of Session to grant letters of inhibition.
- (7) In a case where inhibition is executed under subsection (1)(b) above—
- (a) sections 165 and 166 of this Act do not apply; and
 - (b) sections 158, 159, 160 and 163 of this Act have effect as if references to a “debtor” or “creditor” were references to the debtor or creditor in the obligation.
- (8) In this Part—
- “decree” has the meaning given by section 221 of this Act, except that paragraphs (c), (g) and (h) of the definition of “decree” in that section do not apply; and
- “document of debt” has the meaning given by section 221 of this Act.
- (9) The Scottish Ministers may by order modify the definitions of “decree” and “document of debt” in subsection (8) above by—
- (a) adding types of decree or document to;
 - (b) removing types of decree or document from; or
 - (c) varying the description of,
- the types of decree or document to which those definitions apply.

Commencement Information

- II** S. 146 wholly in force at 22.4.2009; s. 146 not in force at Royal Assent see s. 227; s. 146(9) in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(4), Sch. 3 (with arts. 4-6, 10); s. 146 otherwise in force at 22.4.2009 by S.S.I. 2009/67, art. 3(1) (with transitional modifications and savings in arts. 4-6)

Changes to legislation:

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 146.