

# **BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### *Sequestration where debtor has few assets*

#### *Section 7 – Discharge, conditions etc.*

17. This section inserts 3 new sections. Section 54C disappplies the discharge procedures for ‘minimal asset’ process cases (which are discharged automatically subject only to being transferred into ordinary sequestration under the arrangements in new Schedule A1). Section 55A (‘Discharge under section 54C: conditions’) and section 55B (‘Section 55A: sanctions’) provide that a debtor awarded sequestration on a ‘minimal asset’ basis is subject to a post-bankruptcy restriction. The restriction will last for a period of 6 months from the date of the debtor’s discharge and will impose the following obligations on the debtor:
  - a. The debtor (either alone or jointly with another person) must not obtain credit either of £2,000 or more; or of any amount, where at the time of obtaining credit, they have debts of £1,000 (or such other sum as may be prescribed) or more – unless they inform the person from who they are obtaining credit that they are subject to a post-bankruptcy restriction; and
  - b. The debtor must disclose to those they wish to do business with, the name (or trading style) under which the debtor was sequestrated.
18. The effect of a breach of the restrictions mentioned above during the 6 month period after the date of the debtor’s discharge is that the restriction will extend for a further 6 months and any further breach during the extended period (i.e. from 6 to 12 months following the date of discharge) will amount to an offence.