



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

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- 2 Bankruptcy restrictions orders and undertakings

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Status: This is the original version (as it was originally enacted).

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SCHEDULE 1 — Minor and consequential amendments of the 1985 Act

- 1 The 1985 Act is amended as follows.
2 In section 1A (supervisory functions of the Accountant in Bankruptcy)
—...
3 (1) Section 2 (appointment and functions of interim trustee) is...
4 (1) Section 5 (sequestration of the estate of living or...
5 In section 6(5) (combination of certain petitions for sequestration), for...
6 In section 7(2)(c) (end of apparent insolvency), for “when” substitute...
7 In section 9(5) (jurisdiction), after “petition” insert “, the date...
8 For section 10 (concurrent proceedings for sequestration or analogous
remedy)...
9 In section 11 (creditor’s oath)— (a) in subsection (1), for...
10 In section 12 (when sequestration is awarded)—
11 (1) Section 13 (resignation, removal etc. of interim trustee) is...
12 (1) Section 14 (registration of court order) is amended as...
13 In section 15 (further provision relating to award of sequestration),...
14 In section 16 (petition for recall of sequestration)—
15 In section 17 (recall of sequestration)— (a) in subsection (1)(c),...
16 (1) Section 18 (interim preservation of estate) is amended as...
17 (1) Section 19 (statement of assets and liabilities) is amended...
18 In section 20 (trustee’s duty to send information to Accountant...
19 The italic cross-heading preceding section 21 becomes “Statutory
meeting of...
20 In section 21A(2) (time limit for giving notice of intention...
21 In section 21B (report where no statutory meeting called)—
22 In section 22(3)(a) (trustee’s duty to inform creditors outside
Scotland),...
23 (1) Section 24 (election of permanent trustee) is amended as...
24 (1) Section 25 (confirmation of permanent trustee) is amended as...
25 (1) Section 26 (provisions relating to termination of interim trustee’s...
26 (1) Section 26A (Accountant in Bankruptcy to account for
intromissions)...
27 (1) In section 27 (discharge of interim trustee)—
28 (1) Section 28 (resignation and death of permanent trustee) is...
29 (1) Section 29 (removal of permanent trustee and trustee not...
30 (1) Section 31 (vesting of estate at date of sequestration)...
31 Section 31A (proceedings under EC regulation: modified definition of
“estate”)...
32 In section 32 (vesting of estate and dealings of debtor...
33 In section 37(1) (effect of sequestration on diligence), for “court”...
34 (1) In section 38(1)(a) (taking possession of estate by permanent...
35 (1) Section 39 (management and realisation of estate) is amended...
36 In section 40 (power in relation to family home)—
37 In section 41(1) (protection of occupancy rights of non-entitled spouse)
—...
38 In section 41A(1) (protection of occupancy rights of civil partner)—...
39 In section 42 (contractual powers of permanent trustee)—

- 40 The heading to section 43 becomes “Money received by trustee”....
- 41 In section 46(1) (warrant to apprehend)— (a) in paragraph (a),...
- 42 In section 48 (submission of claims to permanent trustee)—
- 43 In section 51(1)(d) (order of priority in distribution), for “the...
- 44 (1) Section 52 (estate to be distributed in respect of...
- 45 In section 53 (procedure after end of accounting period)—
- 46 After section 53, insert— Modification of procedure under section 53...
- 47 In section 55, subsection (3) (references to a fine or...
- 48 The italic cross-heading preceding section 57 becomes “Discharge of trustee”....
- 49 The heading to section 57 becomes “Discharge of trustee”.
- 50 In section 58A(7) (discharge of Accountant in Bankruptcy), after “sequestration”...
- 51 In section 59A(1) (petition for conversion into sequestration), for “court”,...
- 52 In section 59B(1)(c) (contents of affidavit), for “court”, in both...
- 53 In section 59C (power of court)— (a) for “court”, in...
- 54 In section 60B(2) (trustee to give notice or provide copies...
- 55 In section 61 (extortionate credit transactions), for “court”, in both...
- 56 The heading to section 64 becomes “Debtor to co-operate with...
- 57 In section 65(1) (arbitration and compromise), for “court” substitute “sheriff”....
- 58 The heading to section 69 becomes “Outlays of insolvency practitioner...
- 59 In section 70(1)(a) (supplies by utilities), for “the petition was...
- 60 (1) Section 73 (interpretation) is amended as follows.
- 61 In Schedule 6 (meetings of creditors and commissioners)—
- 62 In Part II of Schedule 7 (re-enactment of certain provisions...

SCHEDULE 2 — The Scottish Civil Enforcement Commission

- 1 Status
- 2 Membership
- 3 No person may be appointed as a member of the...
- 4 Tenure of office
- 5 Subject to paragraphs 6 to 10 below, members are appointed...
- 6 A member who is— (a) a Senator of the College...
- 7 A member who is— (a) a solicitor or advocate; or...
- 8 A member who becomes a member of—
- 9 A member may at any time resign by notice in...
- 10 The Scottish Ministers may remove a member from office if...
- 11 Where— (a) a person makes a complaint to the Commission...
- 12 The Commission may revoke or extend a suspension made under...
- 13 Filling vacancies
- 14 Paragraphs 5 to 13 above apply in relation to a...
- 15 Chairperson
- 16 Disciplinary Committee
- 17 Remuneration
- 18 General powers
- 19 The power in paragraph 18 above includes, in particular, power...
- 20 Where the Commission levies charges under paragraph 19(g) above, it...
- 21 Quorum
- 22 Structure and procedures
- 23 Chief executive officer and other staff

Status: This is the original version (as it was originally enacted).

- 24 The Commission must appoint, as a member of staff, a...
- 25 The Commission may determine the remuneration and conditions of service...
- 26 The Commission may— (a) pay, or make arrangements for the...
- 27 The reference in paragraph 26 above to pensions, allowances and...
- 28 Anything done by virtue of paragraphs 24 to 27 above...
- 29 Location of office
- 30 Financing by the Scottish Ministers
- 31 Any— (a) grant paid in pursuance of paragraph 30(a) above;...
- 32 The Scottish Ministers may, from time to time after any...
- 33 Accounts and audit
- 34 Every statement of accounts prepared by the Commission in accordance...
- 35 The financial year of the Commission is—

SCHEDULE 3 — Expenses of money attachment

- 1 Expenses chargeable against the debtor
- 2 Expenses chargeable against the debtor by virtue of paragraph 1(e)...
- 3 Circumstances where no expenses are due to or by either party
- 4 If— (a) an application mentioned in paragraph 3(a) above is...
- 5 Paragraphs 3 and 4 above do not apply to expenses...

SCHEDULE 4 — Modifications of enactments relating to admiralty actions and the arrestment of ships

- 1 Definition of “maritime lien”
- 2 In sections 45(5) and 47(3)(b), (4)(b) and (5) of the...
- 3 In section 47(2)(r) of the 1956 Act, for “or hypothecation...
- 4 The term “admiralty action”
- 5 (1) In paragraph 7 of schedule 5 to the Civil...
- 6 Arrestment in rem granted by the sheriff
- 7 Arrestment on the dependence
- 8 Liability for losses and expenses
- 9 Factors affecting arrestments
- 10 Cargo on board a ship exempt from attachment
- 11 Location of a ship when arrestment executed
- 12 Demise charters
- 13 In section 6(c) of the Sheriff Courts (Scotland) Act 1907...

SCHEDULE 5 — Minor and consequential amendments

- 1 The Companies Clauses Consolidation (Scotland) Act 1845 (c. 17)
- 2 The Harbours, Docks and Piers Clauses Act 1847 (c. 27)
- 3 The Titles to Land Consolidation (Scotland) Act 1868 (c. 101)
- 4 The Writs Execution (Scotland) Act 1877 (c. 40)
- 5 The Judicial Factors (Scotland) Act 1889 (c. 39)
- 6 The Sheriff Courts (Scotland) Extracts Act 1892 (c. 17)
- 7 The Execution of Diligence (Scotland) Act 1926 (c. 16)
- 8 The Local Government (Scotland) Act 1947 (c. 43)
- 9 The Taxes Management Act 1970 (c. 9)
- 10 The Sheriff Courts (Scotland) Act 1971 (c. 58)
- 11 The Animal Health Act 1981 (c. 22)
- 12 The Civil Jurisdiction and Judgments Act 1982 (c. 27)
- 13 The Bankruptcy (Scotland) Act 1985 (c. 66)
- 14 The Insolvency Act 1986 (c. 45)

- 15 The Legal Aid (Scotland) Act 1986 (c. 47)
- 16 The Debtors (Scotland) Act 1987 (c. 18)
- 17 The Abolition of Domestic Rates etc. (Scotland) Act 1987 (c. 47)
- 18 The Child Support Act 1991 (c. 48)
- 19 The Social Security Administration Act 1992 (c. 5)
- 20 The Local Government Finance Act 1992 (c. 14)
- 21 The Tribunals and Inquiries Act 1992 (c. 53)
- 22 The Proceeds of Crime (Scotland) Act 1995 (c. 43)
- 23 The Criminal Procedure (Scotland) Act 1995 (c. 46)
- 24 The Finance Act 1997 (c. 16)
- 25 The Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)
- 26 The Water Industry (Scotland) Act 2002 (asp 3)
- 27 The Scottish Public Services Ombudsman Act 2002 (asp 11)
- 28 The Freedom of Information (Scotland) Act 2002 (asp 13)
- 29 The Proceeds of Crime Act 2002 (c. 29)
- 30 The Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)
- 31 The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)
- 32 The Finance Act 2003 (c. 14)
- 33 The Civil Partnership Act 2004 (c. 33)

SCHEDULE 6 — Repeals and revocation

Part 1 — REPEALS

Part 2 — REVOCATION