

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 155 – Power of receiver or liquidator in creditors' voluntary winding up to dispose of property affected by inhibition

430. **Section 155(2)** amends the Insolvency Act 1986 by inserting section 61(1A) which provides that an inhibition which comes into force after the creation of a floating charge is not an effectual diligence. This means the inhibition does not restrict the power of a receiver appointed under such a floating charge to deal with any property which would normally be affected by the inhibition. Section 38(3) of this Act determines the date of the creation of a floating charge.
431. Subsection (3) inserts section 166(1A) into the Insolvency Act which provides that a liquidator in a winding up can exercise his or her power under Schedule 4 of that Act to sell property without that being affected by any inhibition in effect against the company's property.