



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 3

### ENFORCEMENT

#### *Scottish Civil Enforcement Commission*

#### **50 Scottish Civil Enforcement Commission**

- (1) There is established a body corporate to be known as the Scottish Civil Enforcement Commission (in this Act, the “Commission”) having the functions conferred on it by virtue of this Act and any other enactment.
- (2) The Commission must, in the exercise of its functions, act—
  - (a) in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements; and
  - (b) in accordance with any directions given to it by the Scottish Ministers.
- (3) In subsection (2)(a) above, “equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 of Part II of Schedule 5 to the Scotland Act 1998 (c. 46).
- (4) The Scottish Ministers may, by regulations—
  - (a) confer functions on;
  - (b) remove functions from; or
  - (c) otherwise modify the functions of,the Commission.
- (5) Regulations made under subsection (4) above may—
  - (a) transfer a function to the Commission which is conferred on another person by virtue of any other enactment; and
  - (b) make such modifications to any other enactment which the Scottish Ministers consider necessary or expedient in consequence of transferring the function.

- (6) The Advisory Council on Messengers-at-Arms and Sheriff Officers is abolished.
- (7) Schedule 2 to this Act makes further provision about the Commission.

## **51 Information and annual report**

- (1) The Commission must provide the Scottish Ministers with information relating to the exercise of the Commission's functions as the Scottish Ministers consider appropriate.
- (2) The Commission must prepare a report on its activities during the whole of each financial year as soon as practicable after the end of the period to which the report relates.
- (3) A report prepared under subsection (2) above—
  - (a) must include a statement of accounts, prepared in accordance with paragraph 33 of schedule 2 to this Act, for the period to which the report relates; and
  - (b) may include a statistical analysis of the performance by judicial officers of their functions and the undertaking by officers of activities during the period to which the report relates or any other period specified by the Commission in the report.
- (4) The Commission may, in preparing the report under subsection (2) above, require a judicial officer to provide any information it considers necessary or proper for the purposes of preparing the report.
- (5) The Commission must—
  - (a) send a copy of each report prepared under subsection (2) above to the Scottish Ministers; and
  - (b) publish the report.
- (6) The Scottish Ministers must lay a copy of a report sent to them under subsection (5) (a) above before the Scottish Parliament.

## **52 Publication of guidance and other information**

- (1) The Commission may—
  - (a) prepare and publish information and other materials; and
  - (b) carry on any other activities,that it considers appropriate for the purposes of informing and educating the public about the matters mentioned in subsection (2) below.
- (2) Those matters are—
  - (a) the Commission's functions;
  - (b) the functions and, subject to section 56(1) of this Act, the activities of judicial officers; and
  - (c) the law of and procedures and practice relating to diligence.

## **53 Published information not to enable identification**

Information—

- (a) contained in a report prepared under section 51(2); or
- (b) published under section 52(1) or 56(1),

of this Act must not be in a form which identifies or enables the identification of judicial officers or persons against whom diligence has been executed.

#### **54 Register of judicial officers**

- (1) The Commission must keep a register of judicial officers, which is to be open to public inspection at reasonable times determined by the Commission.
- (2) The Commission may make rules—
  - (a) prescribing the particulars and other information to be recorded in the register;
  - (b) regulating the procedure by which a judicial officer must intimate such particulars and other information to the Commission;
  - (c) requiring the notification to the Commission of changes in the particulars and other information.

#### **55 Code of practice**

- (1) The Commission—
  - (a) must prepare and publish a code of practice in relation to the exercise of the functions of; and
  - (b) may, subject to section 56(2)(a) of this Act, prepare and publish such a code in relation to the undertaking of activities by, judicial officers.
- (2) The Commission may—
  - (a) revise the whole or any part of a code published under this section; and
  - (b) publish the revised code.
- (3) The Commission must send a copy of each code of practice published under this section to—
  - (a) the Scottish Ministers; and
  - (b) the association designated as the professional association for judicial officers under section 63(1) of this Act (in this Part, the “professional association”).
- (4) The Scottish Ministers must lay a copy of a code of practice sent to them under subsection (3)(a) above before the Scottish Parliament.

#### **56 Publication of information relating to informal debt collection**

- (1) The Commission may publish information and other materials for the purposes of—
  - (a) promoting good practice in; and
  - (b) informing the public about, informal debt collection.
- (2) Information published under subsection (1) above may take the form of—
  - (a) a code of practice for persons undertaking informal debt collection; or
  - (b) guidance for those persons.
- (3) Where the information published under subsection (1) above takes the form of a code of practice for persons undertaking informal debt collection, subsections (2), (3)(a)

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

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and (4) of section 55 of this Act apply as they apply to a code of practice published under that section.

- (4) In this section, “informal debt collection” means the collection of debts (including debts which are not constituted by decrees or documents of debt) by methods other than diligence.
- (5) In subsection (4) above, “decrees” and “documents of debt” are to be construed in accordance with section 221 of this Act.