

BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Advice and education

Section 1 – Sequestration of estate of living debtor: money advice

6. This section amends the 1985 Act to add a new section 5C ('Money advice'), a new section 5(4BA) and a new section 5(2B)(ba). These changes provide that an application for sequestration by a debtor can only be made if the debtor has been given advice on their financial circumstances, the effect of the proposed sequestration and the process of application for sequestration by a 'money adviser'. The application must now include a declaration by the adviser that advice has been given. Section 5C(2) also provides for a definition of who can act as a money adviser to be prescribed by regulations. Other matters on which advice must be obtained and who can act as a money adviser have been prescribed in Bankruptcy (Money Advice and Deduction from Income etc.) (Scotland) Regulations 2014¹. A similar process is in place for money advice as part of the Debt Arrangement Scheme under the [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#).

¹ S.S.I. 2014/296.