Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 1

BANKRUPTCY

Vesting of estate and dealings of debtor

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(1) In section 31 of the 1985 Act (vesting of estate in trustee at date of sequestration)—

(a) after subsection (1) insert—

"(1A) It shall not be competent for—

(a) the trustee; or

(b) any person deriving title from the trustee,

to complete title to any heritable estate in Scotland vested in the trustee by virtue of his appointment before the expiry of the period mentioned in subsection (1B) below.

(1B) That period is the period of 28 days (or such other period as may be prescribed) beginning with the day on which—

(a) the certified copy of the order of the sheriff granting warrant is recorded under subsection (1)(a) of section 14 of this Act; or

(b) the certified copy of the determination of the Accountant in Bankruptcy awarding sequestration is recorded under subsection (1A) of that section,

in the register of inhibitions."; and

(b) in subsection (8), after paragraph (a) insert—

"(aa) any property of the debtor, title to which has not been completed by another person deriving right from the debtor;".

(2) In section 32 (vesting of estate, and dealings of debtor, after sequestration)—

(a) in subsection (8) (dealings with debtor after sequestration to be of no effect), after "under" insert "this section or";

(b) in subsection (9) (circumstances where post-sequestration dealings with debtor remain valid), after paragraph (b)(iii) insert "; or

(iv) one which satisfies the conditions mentioned in subsection (9ZA) below,"; and

(c) after that subsection insert—

"(9ZA) The conditions are that —

(a) the dealing constitutes—

(i) the transfer of incorporeal moveable property; or

(ii) the creation, transfer, variation or extinguishing of a real right in heritable property,

for which the person dealing with the debtor has given adequate consideration to the debtor, or is willing to give adequate consideration to the trustee;

(b) the dealing requires the delivery of a deed; and

(c) the delivery occurs during the period beginning with the date of sequestration and ending on the day which falls 7 days after the day on which—

(i) the certified copy of the order of the sheriff granting warrant is recorded under subsection (1)(a) of section 14 of this Act; or

(ii) the certified copy of the determination of the Accountant in Bankruptcy awarding sequestration is recorded under subsection (1A) of that section,

in the register of inhibitions.".