



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 5

INHIBITION

Breach

160 Breach of inhibition

An inhibited debtor breaches the inhibition when the debtor delivers a deed—

- (a) conveying; or
- (b) otherwise granting a right in,

property over which the inhibition has effect to a person other than the inhibiting creditor.

161 Prescription of right to reduce transactions in breach of inhibition

For the avoidance of doubt, section 8(1) of the Prescription and Limitation (Scotland) Act 1973 (c. 52) (extinction of certain rights relating to property by prescriptive period of 20 years) applies to the right of an inhibitor to have a deed granted in breach of an inhibition reduced.

162 Registration of notice of litigiosity and discharge of notice

After section 159 of the 1868 Act insert—

“159A Registration of notice of summons of action of reduction

- (1) This section applies where a pursuer raises an action of reduction of a conveyance or deed of or relating to lands granted in breach of an inhibition.
- (2) The pursuer shall, as soon as is reasonably practicable after the summons in the action is signeted—

Status: This is the original version (as it was originally enacted).

- (a) register a notice of that signeted summons in accordance with section 159 of this Act; and
 - (b) register in the Land Register of Scotland or, as the case may be, record in the Register of Sasines a copy of that notice.
- (3) Where a decree of reduction is not obtained in the action to which the notice relates, the pursuer shall, as soon as is reasonably practicable—
- (a) register in the Register of Inhibitions; and
 - (b) register in the Land Register of Scotland or, as the case may be, record in the Register of Sasines,
- a discharge of that notice in (or as nearly as may be in) the form prescribed.”.

163 Reduction of lease granted in breach of inhibition

- (1) This section applies where an inhibited debtor grants a lease of property affected by the inhibition.
- (2) A lease which, on the date an action of reduction of the lease is raised, has an unexpired duration of not less than 5 years is reducible.
- (3) A lease which, on the date an action of reduction of the lease is raised, has an unexpired duration of less than 5 years may be reduced only if the Court of Session is satisfied that it would be fair and reasonable in all the circumstances to do so.
- (4) In calculating the unexpired duration of a lease for the purposes of subsections (2) and (3) above—
 - (a) any provision in the lease (however expressed) enabling the lease to be terminated earlier than the date on which the lease would otherwise terminate must be disregarded; and
 - (b) where the lease includes provision (however expressed) requiring the landlord to renew it, the duration of any such renewed lease must be added to the duration of the original lease.