These notes relate to the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11) which received Royal Assent on 29 April 2014

BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Functions of sheriff and Accountant in Bankruptcy in sequestration

Section 34 – Conversion of a protected trust deed into sequestration

84. This section amends sections 59A to 59C of the 1985 Act, in order to transfer, from the sheriff courts to AiB, powers in relation to orders to convert protected trust deeds[1] into sequestrations at the instance of Member State liquidators as are required to be made under those sections[2]. 'Member State liquidator' for these purposes includes trustees in bankruptcy or the equivalent in personal insolvency in other EU Member States.

1 **Protected trust deed** - A trust deed is a form of insolvency by which a debtor transfers estate to a trustee to be realised for the benefit of creditors. A trust deed may be protected as long as a majority in number or a third in value of creditors do not object to its terms. Once protected, the terms of the trust deed becoming binding on all the creditors.

2 Note that existing section 59C(2A) of the 1985 Act applies the Act generally for orders converting trust deeds as it applies to the determination of a debtor application, with the member State liquidator as concurring creditor.