

*These notes relate to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) which received Royal Assent on 15 January 2007*

# **BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 1 – Bankruptcy**

#### **Income received by debtor after sequestration**

#### *Section 18 – Income received by debtor after sequestration*

71. This section amends section 32 of the 1985 Act introducing income payment orders (IPOs) and income payment agreements (IPAs). An IPO is an order requiring the debtor to pay to the trustee a proportion of any income the debtor receives after the award of sequestration. The order may require a third party to pay income due to the debtor straight to the trustee instead. It must, subject to one exception (see paragraph 72 below), be applied for by the trustee before the date of the debtor's discharge. It can run for a maximum period of 3 years and the application must state what period is being applied for. Debtors may be subject to criminal penalties if they default on payments (see new subsection (2ZA) of section 32).
72. An IPA is a formal written agreement between the debtor and the trustee in the same terms as an IPO, but without the requirement of court involvement, and without the possibility of criminal sanctions for defaulting (see new subsection (4F) of section 32). Section 32(4L) of the 1985 Act provides for one exception to the rule that an IPO cannot be applied for after the debtor has been discharged from sequestration. If a debtor has failed to maintain payments agreed under an IPA the trustee can apply to the sheriff to have the remaining payments due converted to an IPO. The application can be made before or after the date of the debtor's discharge.