

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

EXPLANATORY NOTES

THE ACT

Commentary

Part 10 – Arrestment in Execution and Action of Furthcoming

Section 73M – Notice of objection

New section 73S – Mandate to be in prescribed form

723. Section 73S formalises the voluntary mandate which will enable the arrestee to release arrested funds or other property to creditors without having to proceed to an action of furthcoming. The mandate must now be in a form prescribed by the Scottish Ministers by regulations. If a mandate is not in the prescribed form it is invalid. Subsection (3) provides that where a mandate is invalid but the arrestee pays over funds or hands over property, the arrestee is not liable to the debtor or any other interested party for financial loss caused by releasing the funds or property provided the arrestee acted in good faith (for example, the arrestee did not know and could not reasonably have known that the mandate was not in the proper form).