

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

Schedule 2 – the Scottish Civil Enforcement Commission (Introduced by Section 50)

Miscellaneous

Section 75 – Judicial officer’s actions void where officer has interest

228. *Section 75* specifies the conditions under which a judicial officer who has a particular kind of interest may not exercise his or her functions. This covers individual interest as well as circumstances where a debt is owed to or by a business associate or family member of the judicial officer. Any action by the officer in relation to such cases is void which means that it is a nullity. The prohibition on acting covered by this section relates to “prescribed functions”, which are the functions of judicial officers which the Scottish Ministers specify, by regulations, for the purposes of this section (see subsection (7)).
229. Subsection (4) (read with subsection (6)) defines, for the purposes of this section, who is a business associate of the judicial officer and what is meant by the officer having a “controlling interest” in a company or firm.
230. Subsection (5) sets out the list of family members to whom a debt might be due, or who might owe a debt, in relation to which any action by a judicial officer, which is a prescribed function, would be void under this provision. Family members, for the purposes of this section, include a co-habitee of an officer where they are living together as husband and wife and same sex co-habitees living together in a relationship akin to a relationship between husband and wife except that the officer and the person are of the same sex.