

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

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

Abolition of offices of messenger-at-arms and sheriff officer

Section 60 – Abolition of offices of messenger-at-arms and sheriff officer

187. *Section 60(1)* abolishes the offices of messenger-at-arms and sheriff officer. Messengers-at-arms are appointed by the Lord Lyon King of Arms on the recommendation of the Court of Session. Sheriff officers are commissioned on a territorial basis by the sheriff principal of each sheriffdom. Messengers-at-arms execute warrants issued by the Court of Session, the High Court of Justiciary and the Lyon Court. Messengers-at-arms have to be commissioned as sheriff officers before they can be appointed as messengers and are empowered to work across Scotland. Sheriff officers execute warrants of the sheriff court and are authorised to operate within the court area in which they have been granted a commission.
188. Subsection (2) provides that, from the day this section comes into force, those officers (provided they hold a commission as a messenger-at-arms or sheriff officer immediately before section 60(2) comes into force) will be deemed to hold a commission as a judicial officer granted under section 57(2).
189. Subsections (3) to (5) provide that it is competent for a judicial officer to carry out any function (which includes powers and duties) which was competent for a messenger-at-arms or sheriff officer to carry out (providing it does not conflict with any legislative provision about judicial officers) and references in any legislation to “messenger-at-arms”, “sheriff officer” and “officer of court” are to be treated as if they are references to a judicial officer.
190. There are certain provisions in Acts in which the references set out in subsection (5) (a) to (c) are not to be read as references to judicial officers (for example, because the Act refers to the term “officer of court” in a context other than Scottish sheriff officers or messengers-at-arms). Subsection (6) specifies those provisions which are excluded from the effect of subsection (5).