



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 5

INHIBITION

Termination

156 Termination of effect of inhibition

In section 44(3) of the Conveyancing (Scotland) Act 1924 (c. 27) (limitation of effect of certain entries in the Register of Inhibitions and Adjudications)—

- (a) in paragraph (a), the word “inhibitions,”, where it second occurs, is repealed; and
- (b) after that paragraph insert—
 - “(aa) all inhibitions shall cease to have effect on the lapse of five years from the date on which they take effect.”.

157 Inhibition terminated by payment of full amount owing

- (1) This section applies where—
 - (a) an inhibition executed to enforce payment of a debt has effect; and
 - (b) a sum is paid, in respect of the debt constituted by the decree or document of debt authorising the inhibition, to the creditor, a judicial officer or any other person who has authority to receive payment on behalf of the creditor.
- (2) Where the sum paid amounts to the sum of—
 - (a) the debt (including any interest due under the decree or document of debt);
 - (b) the expenses incurred by the creditor in executing an inhibition (referred to in this section and in sections 165 and 166 as the “inhibition expenses”); and
 - (c) the expenses of discharging the inhibition,the inhibition ceases to have effect.

- (3) Any rule of law to the effect that an inhibition ceases to have effect on payment or tender of the debt constituted by the decree or document of debt is abolished.
- (4) This section and sections 165 and 166 of this Act do not apply to an inhibition on the dependence of an action.

158 Inhibition terminated by compliance with obligation to perform

Where—

- (a) an inhibition executed to enforce an obligation to perform a particular act (other than payment) contained in a decree has effect; and
 - (b) the debtor has complied with the decree,
- the inhibition ceases to have effect.

159 Termination of inhibition when property acquired by third party

- (1) Notwithstanding section 160 of this Act, an inhibition ceases to have effect (and is treated as never having had effect) in relation to property if a person acquires the property (or a right in the property) in good faith and for adequate consideration.
- (2) For the purposes of subsection (1) above, a person acquires property (or a right in the property) when the deed conveying (or granting the right in) the property is delivered to the person.
- (3) An acquisition under subsection (1) above may be from the inhibited debtor or any other person who has acquired the property or right (regardless of whether that person acquired in good faith or for value).
- (4) For the purposes of subsection (1) above, a person is presumed to have acted in good faith if the person—
 - (a) is unaware of the inhibition; and
 - (b) has taken all reasonable steps to discover the existence of an inhibition affecting the property.