

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

Part 3 – Enforcement

Scottish Civil Enforcement Commission

Section 50 – Scottish Civil Enforcement Commission

149. [Section 50\(1\)](#) establishes a new corporate body to be known as the Scottish Civil Enforcement Commission. The Commission has to exercise its functions in accordance with any directions given to it by the Scottish Ministers. It also has to carry out its functions in a way which encourages equal opportunities and, in particular, compliance with the equal opportunity requirements.
150. Subsection (4) gives the Scottish Ministers power, by regulations, to confer functions on the Commission, take functions away from the Commission or to otherwise modify the functions of the Commission. Such regulations are subject to affirmative resolution procedure in the Scottish Parliament by virtue of section 224(4)(b)(i) of this Act. “Functions” in this context includes powers and duties (by virtue of section 127 of the Scotland Act 1998 and paragraph 6(3) of the [Scotland Act 1998 \(Transitory and Transitional Provisions\) \(Publication and Interpretation etc. of Acts of the Scottish Parliament\) Order 1999 \(S.I. 1999/1379\)](#)). Hence the ability of the Scottish Ministers to confer functions on the Commission allows them to impose duties on the Commission.
151. Subsection (5) provides that the regulations under subsection (4) may transfer a function conferred on another person (including the Scottish Ministers) by another enactment (such as a regulation or Act) to the Commission. Those regulations may also amend regulations or Acts as a consequence of transferring the function where this is considered necessary or expedient.
152. Subsection (6) abolishes the Advisory Council on Messengers-at-Arms and Sheriff Officers. The Advisory Council was established by Part V of the Debtors (Scotland) Act 1987 (the “1987 Act”), section 76, to advise the Court of Session on the making of Acts of Sederunt (that is to say court rules) to regulate the officer of court profession and generally to keep under review all matters relating to officers of court. Schedule 6 to this Act repeals Part V of the 1987 Act in its entirety since this Part, which deals with matters relating to the professions of sheriff officers and messengers-at-arms, such as their regulation, is replaced by Part 3 of this Act.
153. Subsection (7) introduces schedule 2 which makes general provision about the Commission.