

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION
NOT FOR PUBLICATION OR BROADCAST
BEFORE 0001 HOURS 14 May 2013

**REPORT ON THE CONSOLIDATION OF BANKRUPTCY LEGISLATION IN SCOTLAND
(Scot Law Com No 232)**

The Commission's Report on the Consolidation of Bankruptcy Legislation in Scotland is published today.

What is consolidation?

The primary aim of consolidation is to bring earlier enactments on a given subject matter into one statute, making the law more accessible both to practitioners and to those affected by it.

The need for consolidation

Most of the law recommended for consolidation is already contained in the Bankruptcy (Scotland) Act 1985. The 1985 Act has been heavily amended in recent years, most notably by the Bankruptcy and Diligence etc. (Scotland) Act 2007. Many of the provisions of the 1985 Act are excessively long and the structure of the Act has become difficult to follow with the result that the Act has lost coherence.

The Report makes a number of recommendations for amendments to the Bankruptcy (Scotland) Act 1985. The changes relate to matters of technical detail and are intended to remove anomalies, treat like cases in the same way or to omit provisions that no longer serve any purpose.

Annexed to the Report are -

- A Bankruptcy (Scotland) Bill to consolidate the legislation;
- Tables of Destinations and Derivations relating to the provisions;
- A draft Order which we envisage would be made under section 104 of the Scotland Act 1998 and which would give effect to certain provisions of the Bill in other parts of the UK.

The Commission has worked closely with the Accountant in Bankruptcy in producing the Report.

Lady Clark of Calton, the Chairman of the Commission said -

"It is important that the law on bankruptcy should be stated in a clear and accessible form. The existing statutory provisions dealing with bankruptcy are cumbersome and difficult to use. We hope that consolidating the legislation will make it easier and more efficient for practitioners and others to provide advice to people faced with personal bankruptcy".

Rosemary Winter-Scott, Chief Executive of Accountant in Bankruptcy said –

"We welcome the Scottish Law Commission's Report on the Consolidation of Bankruptcy Legislation in Scotland. Bankruptcy legislation in Scotland has been heavily amended over the years and the consolidation will ensure that the legislation is more accessible for practitioners and those affected by it. A Bankruptcy Bill is due to be introduced in the Scottish Parliament this summer. We expect the Consolidation Bill to follow after that Bill has completed the parliamentary process. This will bring bankruptcy legislation in Scotland into the 21st century."

In its official figures published on 24 April 2013, the Accountant in Bankruptcy reported that for the fourth quarter of the financial year 2012-13 there were 3,472 personal insolvencies in Scotland.

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lady Clark of Calton, a Court of Session judge. The other Commissioners are Laura J Dunlop QC, Patrick Layden QC TD, Professor Hector L MacQueen, and Dr Andrew J M Steven. The Chief Executive is Malcolm McMillan.
2. Further information can be obtained by contacting Malcolm McMillan, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, email: info@scotlawcom.gsi.gov.uk).
3. The paper may also be viewed on our website at <http://www.scotlawcom.gov.uk/> or purchased from TSO (<http://www.tsoshop.co.uk/>).