

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION
NOT FOR PUBLICATION OR BROADCAST
BEFORE 0001 HOURS 15 August 2011

Making bankruptcy law accessible

Today the Scottish Law Commission publishes its **Consultation Paper on the Consolidation of Bankruptcy Legislation in Scotland**.

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 proposed for consolidation is already contained in a single Act – the Bankruptcy (Scotland) Act 1985. But the 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.

Seeking the views of consultees

The consultation paper invites views on a number of proposed changes to the 1985 Act. 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. The aim is to pave the way for a new and more accessible legislative framework governing bankruptcy in Scotland.

The Commission is also inviting suggestions for other amendments which would seek to tidy up (as opposed to reform) the 1985 Act.

The Chairman of the Commission said -

"It is essential that the law in important areas such as bankruptcy should be stated in a clear and accessible form. The existing statutory provisions dealing with bankruptcy, which are lengthy, are cumbersome and difficult to use. Our aim is to

remedy this by restating the law in a single coherent Act. This will, we think, be of great assistance to all those who become involved in bankruptcy procedures."

We have prepared drafts of the following papers to accompany the Consultation Paper

- A Bankruptcy (Scotland) Bill to consolidate the legislation
- Tables of Destinations and Derivations relating to the provisions
- An 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 these drafts.

Comments on the provisional proposals for amendments to the 1985 Act, set out in the Consultation Paper, together with any suggestions as to other possible changes to the Act, and any comments on the accompanying drafts are invited by **30 November 2011**

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 Lord Drummond Young, a Court of Session judge. The other Commissioners are Laura J Dunlop QC, Patrick Layden QC TD, and Professor Hector L MacQueen. The Chief Executive is Malcolm McMillan.

2. Further information can be obtained by contacting Susan Sutherland, 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 www.scotlawcom.gov.uk