

Criminal Finances Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 28

BARONESS WILLIAMS OF TRAFFORD

1 Page 87, line 29, at end insert –

“() After section 245 insert –

“245ZA Notice to local authority: Scotland

- (1) This section applies if, in proceedings under this Chapter for a recovery order, the enforcement authority applies under section 266(8ZA) for decree of removing and warrant for ejection in relation to heritable property which consists of or includes a dwellinghouse.
- (2) The enforcement authority must give notice of the application to the local authority in whose area the dwellinghouse is situated.
- (3) Notice under subsection (2) must be given in the form and manner prescribed under section 11(3) of the Homelessness etc. (Scotland) Act 2003.
- (4) In this section –
 - “dwellinghouse” has the meaning given by section 11(8) of the Homelessness etc. (Scotland) Act 2003;
 - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and
 - “area”, in relation to a local authority, means the local government area for which the authority is constituted.”

2 Page 87, line 41, at end insert –

“() After section 269 insert –

“269A Leases and occupancy rights: Scotland

- (1) This section applies where, in making a recovery order, the Court of Session also grants decree of removing and warrant for ejection under section 266(8ZA) in relation to any persons occupying the heritable property.

- (2) Any lease under which a person has the right to occupy the heritable property (or part of it) for residential or commercial purposes is terminated on the granting of decree of removing and warrant for ejection.
- (3) Any other right to occupy the heritable property (or part of it) which subsists immediately before the granting of decree of removing and warrant for ejection is extinguished on the granting of the decree and warrant.
- (4) Subsection (3) does not apply in relation to a right under a lease to occupy or use the property other than those mentioned in subsection (2).
- (5) Where the heritable property is vested in the trustee for civil recovery under the recovery order, the following enactments do not apply in relation to the heritable property –
 - (a) sections 34 to 38A of the Sheriff Courts (Scotland) Act 1907 (removings, notice of termination of tenancy and notice of removal);
 - (b) the Tenancy of Shops (Scotland) Act 1949;
 - (c) the Matrimonial Homes (Family Protection) (Scotland) Act 1981;
 - (d) Parts 2 and 3 of the Rent (Scotland) Act 1984 (security of tenure and protection against harassment and unlawful eviction);
 - (e) sections 4 to 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (termination of certain leases);
 - (f) Part 2 of the Housing (Scotland) Act 1988 (rented accommodation: security of tenure etc.);
 - (g) Chapter 3 of Part 3 of the Civil Partnership Act 2004 (occupancy rights and tenancies);
 - (h) Part 5 of the Private Housing (Tenancies) (Scotland) Act 2016 (security of tenure, termination of tenancy and eviction).”

Clause 53

BARONESS WILLIAMS OF TRAFFORD

- 3 Page 119, line 1, at end insert “section 28 or”
- 4 Page 119, line 8, leave out “subsection (1)” and insert “subsections (1) to (3)”
- 5 Page 119, line 11, leave out subsections (6) and (7) and insert –
 - “() Regulations under subsection (2) or (3) may not include provision of the kind mentioned in subsection (5) unless the provision is within legislative competence.
 - () For this purpose, a provision of regulations is within legislative competence if –
 - (a) in the case of regulations made by the Scottish Ministers, it would fall within the legislative competence of the Scottish Parliament if included in an Act of that Parliament;

- (b) in the case of regulations made by the Department of Justice in Northern Ireland, it deals with a transferred matter.”

Clause 54

BARONESS WILLIAMS OF TRAFFORD

- 6 Page 119, line 43, leave out from “that” to “consult” in line 45 and insert “deals with a transferred matter”
- 7 Page 120, line 16, after “repeal” insert “, revoke”
- 8 Page 120, line 17, leave out “an Act of the Scottish Parliament” and insert “primary legislation”
- 9 Page 120, line 23, leave out “Northern Ireland legislation” and insert “primary legislation”

Schedule 5

BARONESS WILLIAMS OF TRAFFORD

- 10 Page 179, line 10, at end insert –
- “76A(1) Section 435 (use of information by certain Directors) is amended as follows.
- (2) In the heading for “Directors” substitute “authorities”.
- (3) In subsection (1) –
- (a) for “the Director” substitute “a relevant authority”;
- (b) for “his”, in each place, substitute “the authority’s”;
- (c) for “him” substitute “the authority”.
- (4) In subsection (2) –
- (a) for “the Director” substitute “a relevant authority”;
- (b) for “his”, in each place, substitute “the authority’s”;
- (c) for “him” substitute “the authority”.
- (5) In subsection (4) –
- (a) in the words before paragraph (a), for ““the Director”” substitute ““relevant authority””;
- (b) omit “or” at the end of paragraph (b);
- (c) after paragraph (c) insert –
- “(d) Her Majesty’s Revenue and Customs; or
- (e) the Financial Conduct Authority.”
- (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 76B (1) Section 436 (disclosure of information to certain Directors) is amended as follows.
- (2) In the heading for “Directors” substitute “authorities”.

- (3) In subsection (1) —
 - (a) for “the Director”, in the first place it occurs, substitute “a relevant authority”;
 - (b) for “the Director”, in the second place it occurs, substitute “the authority”;
 - (c) for “his” substitute “the authority’s”.
 - (4) In subsection (5), after paragraph (h) insert —
 - “(i) the Financial Conduct Authority.”
 - (5) In subsection (10) for ““the Director”” substitute ““relevant authority””.
 - (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 76C (1) Section 437 (further disclosure) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “the Director’s” substitute “a relevant authority’s”.
 - (3) In subsection (6) —
 - (a) for “the Director”, in the first place it occurs, substitute “a relevant authority”;
 - (b) for “the Director”, in the second place it occurs, substitute “the authority”.
 - (4) In subsection (7) for ““the Director”” substitute ““relevant authority””.
- 76D (1) Section 438 (disclosure of information by certain Directors) is amended as follows.
- (2) In the heading for “Directors” substitute “authorities”.
 - (3) In subsection (1) —
 - (a) in the words before paragraph (a) —
 - (i) for “the Director” substitute “a relevant authority”;
 - (ii) for “his” substitute “the authority’s”;
 - (iii) for “him” substitute “the authority”;
 - (b) in paragraph (c) for “Director’s” substitute “authority’s”;
 - (c) in paragraph (e) after “Part 5” insert “or 8”;
 - (d) in paragraph (f) —
 - (i) for “or a constable” substitute “, a constable or an SFO officer”;
 - (ii) after “Chapter 3” insert “, 3A or 3B”;
 - (e) in paragraph (fa) for “Director” substitute “relevant authority”.
 - (4) In subsection (5) —
 - (a) for “the Director” substitute “a relevant authority”;
 - (b) for “he”, in each place, substitute “the authority”.
 - (5) In subsection (10) for ““the Director”” substitute ““relevant authority””.
 - (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.

76E (1) Section 439 (disclosure of information to Lord Advocate and to Scottish Ministers) is amended as follows.

(2) In subsection (1), after “Part 5” insert “or 8”.

(3) In subsection (5), after paragraph (h) insert –
“(i) the Financial Conduct Authority.”

(4) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.

11 Page 179, line 11, leave out paragraphs 77 and 78

12 Page 179, line 15, leave out from beginning to “subsection” in line 16 and insert –
“77 (1) Section 441 (disclosure of information by Lord Advocate and by Scottish Ministers) is amended as follows.

(2) In subsection (1), after “Chapter 3” insert “or 3A”.

(3) In”

13 Page 179, line 18, at end insert –

“() in paragraph (fa), for the words from “functions” to “Ireland” substitute “functions of a relevant authority, as defined by section 435(4),”;

() in paragraph (g) –

(i) omit “a customs officer or”;

(ii) after “Chapter 3” insert “, 3A or 3B”.”

14 Page 180, line 20, at end insert –

“Homelessness etc. (Scotland) Act 2003 (asp 10)

In section 11 of the Homelessness etc. (Scotland) Act 2003 (notice to local authority of proceedings for possession etc.), in subsection (5), after paragraph (f) insert –

“(fa) section 245ZA(2) of the Proceeds of Crime Act 2002 (notice to local authority of application for decree of removing and warrant for ejection),”.

Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)

The Bankruptcy and Diligence etc. (Scotland) Act 2007 is amended as follows.

(1) Section 214 (expressions used in Part 15) is amended as follows.

(2) In subsection (1) –

(a) omit “and” after the definition of “a decree for removing from heritable property”, and

(b) after the definition of “an action for removing from heritable property” insert –

““defender”, in relation to a decree for removing from heritable property of the type mentioned in subsection (2)(l), means any person against whom the decree is enforceable.”

(3) In subsection (2) –

- (a) omit “and” at the end of paragraph (j), and
- (b) after paragraph (k) insert “; and
 - (l) a decree of removing and warrant for ejection granted under section 266(8ZA) of the Proceeds of Crime Act 2002.”

In section 216 (service of charge before removing) –

- (a) in subsection (1), in paragraph (a), for “14 days” substitute “the appropriate period”, and
- (b) after that subsection insert –

“(1A) In subsection (1)(a), “the appropriate period” means –

- (a) in the case of a decree for removing from heritable property of the type mentioned in paragraph (l) of section 214(2), 28 days,
- (b) in the case of a decree for removing from heritable property of the type mentioned in any other paragraph of that section, 14 days.”

In section 218 (preservation of property left in premises), after subsection (2) insert –

- “(3) In the application of this section to the granting of a decree for removing from heritable property of the type mentioned in section 214(2)(l), “pursuer” means the trustee for civil recovery who is responsible by virtue of section 267(3)(ba) of the Proceeds of Crime Act 2002 for enforcing the decree.””