

*Changes to legislation: There are currently no known outstanding effects for the Public Services Reform (Scotland) Act 2010, Cross Heading: Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3). (See end of Document for details)*

SCHEDULE 4  
REGULATION OF OFFICERS OF COURT: MODIFICATIONS OF ENACTMENTS

PART 1

AMENDMENTS

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

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

**Annotations:**

**Commencement Information**

- I1** Sch. 4 para. 9 in force at 31.1.2011 for specified purposes by S.S.I. 2011/30, art. 3(1)(3), Sch. 1  
**I2** Sch. 4 para. 9 in force at 1.4.2011 for specified purposes by S.S.I. 2011/30, art. 3(2)(3), Sch. 2

10 For the title of Part 3 (“Enforcement”) substitute “ Officers of court ”.

**Annotations:**

**Commencement Information**

- I3** Sch. 4 para. 10 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 11 (1) In section 51 (information and annual report)—
- (a) subsection (1) is repealed,
  - (b) in subsection (2) for “The Commission” substitute “ The Advisory Council on Messengers-at-Arms and Sheriff Officers (the “Advisory Council”) ”,
  - (c) in subsection (3)—
    - (i) paragraph (a) is repealed,
    - (ii) in paragraph (b) for “judicial officers” substitute “ officers of court ”,
    - (iii) in that paragraph for “Commission” substitute “ Advisory Council ”,
  - (d) in subsection (4)—
    - (i) for “Commission” substitute “ Advisory Council ”,
    - (ii) for “a judicial officer” substitute “ the professional association designated by regulations under section 63(1)(a) ”,
    - (iii) for “it” substitute “ provided by virtue of regulations under section 63(1A) which the Advisory Council ”,
  - (e) in subsection (5) for “Commission” substitute “ Advisory Council ”,
  - (f) subsection (6) is repealed.
- (2) In the title to section 51 for the words “Information and” substitute “ Advisory Council's ”.
- (3) Immediately above section 51 insert the italic heading “ Advisory Council on Messengers-at-Arms and Sheriff Officers ”.

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**Annotations:**

**Commencement Information**

**I4** Sch. 4 para. 11 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 12 In section 53 (published information not to enable identification)—
- (a) paragraph (b) and the word “or” immediately preceding it are repealed,
  - (b) for “judicial officers” substitute “ officers of court ”.

**Annotations:**

**Commencement Information**

**I5** Sch. 4 para. 12 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 13 (1) In section 61 (regulation of judicial officers)—
- (a) in subsections (1) and (2)(a) for “judicial officers” substitute “ officers of court ”,
  - (b) in subsection (2) paragraph (d) is repealed,
  - (c) in subsection (3) for “the Commission” substitute “—
    - (a) the Lord President of the Court of Session; and
    - (b) each sheriff principal.”.
- (2) In the title to section 61 and the italic heading immediately preceding it for “judicial officers” substitute “ officers of court ”.

**Annotations:**

**Commencement Information**

**I6** Sch. 4 para. 13 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 14 (1) In section 62 (duty to notify Commission of bankruptcy etc.)—
- (a) in subsection (1)—
    - (i) for “a judicial officer” substitute “ an officer of court ”,
    - (ii) for “notify the Commission in writing of it” substitute—
      - “(a) in the case of a messenger-at-arms, notify the Lord President of the Court of Session in writing of the event;
      - (b) in the case of a sheriff officer, notify the sheriff principal from whom the officer holds a commission in writing of the event.”,
  - (b) in subsection (2)(a), (f) and (g) for “judicial officer” substitute “ officer of court ”.
- (2) In the title to section 62 for “Commission” substitute “ Lord President and sheriff principal ”.

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**Annotations:**

**Commencement Information**

**I7** Sch. 4 para. 14 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), Sch. 2

- 15 (1) In section 63 (judicial officers' professional association)—
- (a) in paragraph (a) of subsection (1)—
    - (i) after “association”, where it first occurs, insert “ (in this Part, the “professional association”) ”,
    - (ii) for “judicial officers” substitute “ officers of court ”,
  - (b) after subsection (1) insert—
    - “(1A) Regulations under subsection (1) may require an officer of court to provide such information as the professional association reasonably considers necessary.”,
  - (c) for subsection (2)(a) substitute—
    - “(a) the Lord President of the Court of Session;
    - (aa) each sheriff principal;”,
  - (d) in subsection (3) for “a judicial officer” substitute “ an officer of court ”.
- (2) In the title to section 63 and the italic heading immediately preceding it for “Judicial officers” substitute “ Officers of court's ”.

**Annotations:**

**Commencement Information**

**I8** Sch. 4 para. 15 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 16 After section 63 insert—

**“63A Code of practice**

- (1) The professional association—
  - (a) must prepare and publish a code of practice in relation to the functions of officers of court; and
  - (b) may prepare and publish such a code in relation to the undertaking of activities by such officers.
- (2) The professional association may revise the whole or any part of a code published under this section.
- (3) Where a code or any part of a code is revised under subsection (2), the professional association—
  - (a) in a case where the revision results in substantial changes, must publish the revised code;
  - (b) in any other case, may publish the revised code.
- (4) The professional association must not publish a code of practice or a revised code of practice under this section without the prior approval of the Lord President of the Court of Session.

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- (5) The professional association must send a copy of each code of practice published under this section to—
- (a) the Scottish Ministers;
  - (b) the Lord President of the Court of Session;
  - (c) each sheriff principal; and
  - (d) each officer of court.”.

**Annotations:**

**Commencement Information**

**I9** Sch. 4 para. 16 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), Sch. 2

17 (1) In section 64 (duty of professional association to forward complaints to Commission)

- (a) for “a judicial officer” substitute “ an officer of court ”,
- (b) for “to the Commission” substitute—
  - “(a) to the Lord President of the Court of Session;
  - (b) in the case of a complaint about a messenger-at-arms, to the sheriff principal from whom the messenger-at-arms holds a commission as a sheriff officer; and
  - (c) in the case of a complaint about a sheriff officer, to the sheriff principal from whom the sheriff officer holds a commission.”.

(2) In the title to section 64 the words “to Commission” are repealed.

**Annotations:**

**Commencement Information**

**I10** Sch. 4 para. 17 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), Sch. 2

18 In section 65 (information from professional association)—

- (a) for “Commission”, where it first occurs, substitute “ Lord President of the Court of Session or any sheriff principal ”,
- (b) for “Commission”, where it second occurs, substitute “ Lord President or, as the case may be, sheriff principal ”,
- (c) in paragraph (b) for “67 of this Act” substitute “ 79(2) of the 1987 Act ”,
- (d) for paragraph (c) substitute—
  - “(c) any disciplinary proceedings brought under section 79(3) of that Act.”.

**Annotations:**

**Commencement Information**

**I11** Sch. 4 para. 18 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), Sch. 2

19 After section 65 insert—

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*“Annual fee for officers of court*

**65A Annual fee**

- (1) The professional association may make rules requiring every officer of court holding a commission to pay an annual fee to the association.
- (2) Rules made under subsection (1) above may include provision—
  - (a) specifying the date by which the fee must be paid each year;
  - (b) specifying the manner in which it must be paid; and
  - (c) about any other matters in relation to the fee that the professional association considers appropriate.
- (3) Rules under this section may be made only with the approval of the Lord President of the Court of Session.”.

**Annotations:**

**Commencement Information**

**I12** Sch. 4 para. 19 in force at 1.4.2011 by S.S.I. 2011/30, art. 3(2)(3), Sch. 2

- 20
- (1) In section 66 (inspection of judicial officer)—
    - (a) in subsection (1)—
      - (i) for “Commission” substitute “ Lord President of the Court of Session or any sheriff principal ”,
      - (ii) for “a judicial officer” substitute “ an officer of court ”,
    - (b) in subsection (2)—
      - (i) for “Commission” substitute “ Lord President or, as the case may be, the sheriff principal ”,
      - (ii) for “judicial officer” substitute “ officer of court ”,
    - (c) in subsection (3) for “Commission” substitute “ Lord President or, as the case may be, the sheriff principal ”,
    - (d) in subsection (4) for “Commission” substitute “ Scottish Ministers ”.
  - (2) In the title to section 66 for “judicial officer” substitute “ officer of court ”.
  - (3) In the italic heading immediately preceding section 66 for “judicial officers” substitute “ officers of court ”.

**Annotations:**

**Commencement Information**

**I13** Sch. 4 para. 20 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 21
- (1) In section 75 (judicial officer's action void where officer has interest)—
    - (a) in subsections (1), (4)(a) and (7) for “a judicial officer” substitute “ an officer of court ”,
    - (b) in subsection (2), for “A judicial officer” substitute “ An officer of court ”,

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- (c) in subsections (3)(a) and (6) for “judicial officer” substitute “ officer of court ”
- (d) in subsection (5), for “a judicial officer's” substitute “ an officer of court's ”.

(2) In the title to section 75 for “Judicial officer's” substitute “ Officer of court's ”.

**Annotations:**

**Commencement Information**

**I14** Sch. 4 para. 21 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

22 In section 77 (effect of code of practice)—

- (a) in subsection (1)—
  - (i) for “A judicial officer” substitute “ An officer of court ”,
  - (ii) for the words “55 or 56” substitute “ 63A ”,
- (b) in subsection (2), for “a judicial officer” substitute “ an officer of court ”,
- (c) for paragraph (b) of subsection (4) substitute—
  - “(b) a relevant court (within the meaning of subsection (8) of section 79 of the 1987 Act (investigation of alleged misconduct)) in disciplinary proceedings under that section;”.

**Annotations:**

**Commencement Information**

**I15** Sch. 4 para. 22 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

23 In section 78 (electronic publications and communications) the words “admission or representation”, in both places where they occur, are repealed.

**Annotations:**

**Commencement Information**

**I16** Sch. 4 para. 23 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

24 (1) In the provisions listed in sub-paragraph (2) for “judicial officer” substitute “ officer of court ”.

(2) The provisions referred to in sub-paragraph (1) are sections 83(5), 176(2), 177(1) and (3) to (8), 178(1) to (4), 179(1) to (4), 180(1), 181(1)(b) and (4), 182(1), (2), (4) and (6)(b), 183(4)(b), (11)(b) and (12)(b), 184(1), (2), (4) and (5)(c), 185(2)(b), (4)(b), (5) and (7), 186(2)(b), (3)(b) and (5)(c), 187(1)(b), (2)(a)(ii) and (3), 188(4), 189(1), (2)(a), (3)(b), (5) and (6), 191(2)(b)(i) and (4), 216(3) and 217(2).

**Annotations:**

**Commencement Information**

**I17** Sch. 4 para. 24 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

25 In—

- (a) sections 117(4), 121(1), 139(1)(c), 157(1)(b) and 183(1)(a), and

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(b) paragraph 1(j) of schedule 3,  
for “a judicial officer” substitute “ an officer of court ”.

**Annotations:**

**Commencement Information**

**I18** Sch. 4 para. 25 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

26 In section 128(1) (interpretation of Chapter 2 of Part 4), after the definition of “notice of land attachment” insert—

““officer of court” means the officer of court appointed by the creditor;”.

**Annotations:**

**Commencement Information**

**I19** Sch. 4 para. 26 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

27 In section 145(1) (interpretation of Chapter 3 of Part 4), after the definition of “dwellinghouse” insert—

““officer of court” means the officer of court appointed by the creditor;”.

**Annotations:**

**Commencement Information**

**I20** Sch. 4 para. 27 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

28 In section 178(1) (presumption of ownership), for “A judicial officer” substitute “ An officer of court ”.

**Annotations:**

**Commencement Information**

**I21** Sch. 4 para. 28 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

29 In section 198(1) (interpretation of Part 8), after the definition of “money” insert—

““officer of court” means the officer of court appointed by the creditor;”.

**Annotations:**

**Commencement Information**

**I22** Sch. 4 para. 29 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

30 In section 221 (interpretation), after the definition of “electronic communication” insert—

““officer of court” means a messenger-at-arms or a sheriff officer;”.

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**Annotations:**

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**Commencement Information**

**I23** Sch. 4 para. 30 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 31 In schedule 5 (minor and consequential amendments), in sub-sub-paragraph (c) of paragraph 7(2), for the words from “for” to the end of the sub-sub-paragraph, substitute “for “law agent” substitute “ solicitor ””.

**Annotations:**

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**Commencement Information**

**I24** Sch. 4 para. 31 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 32 In Part 1 of schedule 6 (repeals and revocations), in the entry relating to the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), before the word “Schedule” in the second column, insert “ In ”.

**Annotations:**

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**Commencement Information**

**I25** Sch. 4 para. 32 in force at 31.1.2011 by S.S.I. 2011/30, art. 3(1)(3), Sch. 1



**Changes to legislation:**

There are currently no known outstanding effects for the Public Services Reform (Scotland) Act 2010, Cross Heading: Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).