Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 3

[[F1]OFFICERS OF COURT]

Miscellaneous

75 [[F1]Officer of court's] actions void where officer has interest

(1) Anything done by [[F2]an officer of court] in exercising or purporting to exercise a prescribed function in relation to a matter in which the officer has an interest is void.

(2) [[F3]An officer of court] has an interest in a matter where the matter—

(a) is one in which the officer has an interest as an individual; or

(b) consists of or includes a debt in relation to which any of the circumstances mentioned in subsection (3) below apply.

(3) The circumstances referred to in subsection (2)(b) above are that the debt is due to or by—

(a) a business associate of the [[F4]officer of court];

(b) a member of the officer's family; or

(c) a company or firm, and the officer, a business associate of the officer or a member of the officer's family—

(i) is a director or partner of that company or firm;

(ii) holds, either alone or along with an other person, a controlling interest in that company or firm; or

(iii) has a pecuniary interest in that company or firm and the sole or main business of the company or firm is the purchase of debts for enforcement.

(4) Any reference in subsection (3) above to—

(a) a business associate of [[F5]an officer of court] is to be construed as a reference to a co-director, partner, employer, employee, agent or principal of the officer;

(b) a controlling interest in a company is to be construed as a reference to an interest giving a person control of a company within the meaning of section 840 of the Income and Corporation Taxes Act 1988 (c. 1) (meaning of "control").

(5) Any reference in subsection (3) above to a member of **[**[F6]an officer of court's**]** family is to be construed as a reference to—

(a) the spouse of the officer;

(b) a person living together with the officer as husband and wife;

(c) a civil partner of the officer;

(d) a person living with the officer in a relationship which has the characteristics of the relationship between a husband and wife except that the person and the officer are of the same sex;

(e) a parent of the officer;

(f) a brother or sister of the officer;

(g) a child of the officer, including—

(i) a stepchild; and

(ii) any child brought up or treated by the officer or any person mentioned in paragraph (b), (c) or (d) above as a child of the officer or, as the case may be, of that person;

(h) a grandchild of the officer,

and any relationships of the half blood or by affinity are to be construed as relationships of the full blood.

(6) In subsection (4)(a) above, "principal" does not include a principal in a contract for the carrying out by the **[**[F7]officer of court**]** of the prescribed function in relation to the debt concerned.

(7) In subsections (1) and (6) above, "prescribed function" means any function conferred on **[**[F8]an officer of court**]** by virtue of this Act or any other enactment which the Scottish Ministers by regulations specify for the purposes of this section.

Textual Amendments

F1 Words in s. 75 substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(2)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F2 Words in s. 75(1) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(a)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F3 Words in s. 75(2) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(b)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F4 Words in s. 75(3)(a) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(c)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F5 Words in s. 75(4)(a) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(a)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F6 Words in s. 75(5) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(d)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F7 Words in s. 75(6) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(c)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

F8 Words in s. 75(7) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 21(1)(a)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

Commencement Information

I1 S. 75 not in force at Royal Assent see s. 227; s. 75(7) in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, **art. 3(4)**, Sch. 3 (with arts. 4-6, 10)

I2 S. 75(1)-(6) in force at 31.1.2011 by S.S.I. 2011/31, **art. 3(f)**

I3 S. 75(7) in force at 31.1.2011 in so far as not already in force by S.S.I. 2011/31, **art. 3(f)**

Changes to legislation:
There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 75.