



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART V

MESSENGERS-AT-ARMS AND SHERIFF OFFICERS

80 Courts' powers in relation to offences or misconduct.

- (1) Where the Court of Session becomes aware that a messenger-at-arms has been convicted by a court of any offence, it may make
 - [^{F1}(a)] an order finding that the messenger-at-arms should be suspended from practice for such period as may be specified in the order, or deprived of office;
 - [^{F2}(b)] an order mentioned in paragraph (aa) or (c) of subsection (5) below.]
- (2) Where the sheriff principal from whom a sheriff officer holds a commission becomes aware that the sheriff officer has been convicted by a court of any offence, the sheriff principal may make
 - [^{F3}(a)] an order suspending the sheriff officer from practice for such period as may be specified in the order, or depriving him of office, in that sheriffdom;
 - [^{F4}(b)] an order in relation to the sheriff officer of a kind mentioned in paragraph (aa) or (c) of subsection (5) below.]
- (3) Subsections (1) and (2) above are without prejudice to section 4(3)(b) of the ^{M1}Rehabilitation of Offenders Act 1974; and in those subsections "offence" means any offence of which the officer of court has been convicted before or after he was granted a commission as an officer of court, other than any offence disclosed in his application for such a commission.

[^{F5}(3A) Where—

- (a) a solicitor is appointed to investigate a matter in respect of a messenger-at-arms under section 79(2) of this Act; or
- (b) the Court of Session becomes aware that a messenger-at-arms has been charged with an offence,

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the Court of Session may make an order finding that the messenger-at-arms should be suspended from practice for such period as may be specified in the order or in an order extending such period.

(3B) Where—

- (a) a solicitor is appointed to investigate a matter in respect of a sheriff officer under section 79(2) of this Act; or
- (b) the sheriff principal from whom a sheriff officer holds a commission becomes aware that the sheriff officer has been charged with an offence,

the sheriff principal may make an order suspending the officer from practice for such period as may be specified in the order or in an order extending such period in that sheriffdom.]

(4) Where—

- (a) a messenger-at-arms admits in writing that he is guilty of misconduct; or
- (b) the Court of Session at the end of disciplinary proceedings under section 79(3) (a) of this Act is satisfied that a messenger-at-arms is guilty of misconduct,

the Court of Session may make one or more of the orders specified in subsection (5) below.

[^{F6}(4A) Where the Court of Session at the end of disciplinary proceedings brought under subsection (3) of section 79 of this Act is satisfied that a concern mentioned in subsection (1)(d)(ii) of that section in relation to a messenger-at-arms is founded, the Court of Session may make an order under paragraph (a) or (aa) of subsection (5) below.]

(5) The orders referred to in subsection (4) above are—

- (a) an order finding that the messenger-at-arms should be suspended from practice for such period as may be specified in the order, or deprived of office;

[^{F7}(aa) an order restricting—

- (i) the functions which the messenger-at-arms may exercise; or
- (ii) the activities which the messenger-at-arms may undertake,

for such period as may be specified in the order;]

- (b) an order imposing a fine on the messenger-at-arms not exceeding £2,500 or such sum as may be prescribed in regulations made by the Lord Advocate;
- (c) an order censuring the messenger-at-arms;
- (d) if the misconduct consists of, or includes, the charging of excessive fees or outlays, an order decerning for repayment by the messenger-at-arms of the fees or outlays, to the extent that they were excessive, to the person who paid them.

(6) Where—

- (a) a sheriff officer admits in writing that he is guilty of misconduct; or
- (b) the sheriff principal at the end of disciplinary proceedings under section 79(3) (a) of this Act is satisfied that a sheriff officer is guilty of misconduct,

the sheriff principal may make one or more of the orders specified in subsection (7) below.

[^{F8}(6A) Where the sheriff principal at the end of disciplinary proceedings brought under subsection (3) of section 79 of this Act is satisfied that a concern mentioned in

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subsection (1)(d)(ii) of that section in relation to a sheriff officer is founded, the sheriff principal may make, in relation to the sheriff officer, an order—

- (a) of a kind mentioned in paragraph (aa) of subsection (5) above; or
- (b) under paragraph (a) of subsection (7) below.]

(7) The orders referred to in subsection (6) above are—

- (a) an order suspending the sheriff officer from practice for such period as may be specified in the order, or depriving him of office, in that sheriffdom;
- (b) an order in relation to the sheriff officer of a kind mentioned in [F9 subsection (5)(aa), (b),] (c) or (d) above.

(8) Where an officer of court fails to comply with an order under this section imposing a fine on him, the Court of Session or, as the case may be, the sheriff principal may make an order—

- (a) decerning for payment of the fine, and an extract of any such order shall contain a warrant in the form prescribed by Act of Sederunt which shall have the same effect as an extract of a decree for payment of money pronounced by the Court of Session; or
- (b) of the kind specified in subsection (5)(a) or, as the case may be, (7)(a) above.

(9) Any fine imposed under this section shall be recoverable by the Lord Advocate.

Textual Amendments

- F1 S. 80(1)(a): words in s. 80(1) renumbered as s. 80(1)(a) (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(a\)\(i\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F2 S. 80(1)(b) added (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(a\)\(ii\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F3 S. 80(2)(a): words in s. 80(2) renumbered as s. 80(2)(a) (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(b\)\(i\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F4 S. 80(2)(b) added (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(b\)\(ii\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F5 S. 80(3A)(3B) inserted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(c\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F6 S. 80(4A) inserted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(d\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F7 S. 80(5)(aa) inserted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(e\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F8 S. 80(6A) inserted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(f\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2
- F9 Words in s. 80(7)(b) substituted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 4 para. 5\(g\)](#); S.S.I. 2011/30, art. 3(2)(3), sch. 2

Marginal Citations

- M1 1974 c. 53.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 8(1)(d)(e) substituted for s. 8(1)(d) by [2007 asp 3 Sch. 5 para. 16\(7\)\(a\)\(v\)](#)