

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

Schedule 2 – the Scottish Civil Enforcement Commission (Introduced by Section 50)

Disciplinary proceedings

Section 72 – Disciplinary committee’s powers

220. *Section 72* covers the situation where, after dealing with a matter referred to it, the disciplinary committee is satisfied that it is appropriate to take further action.
221. Where the judicial officer is guilty of misconduct (as defined in section 67(9)), the disciplinary committee can suspend the officer or recommend that the Lord President deprive the officer of office, it can censure the officer, it can restrict the officer’s functions or activities or it can impose a fine. If the officer is guilty of charging excessive fees, the committee can also require the officer to pay back the excessive amounts (with interest).
222. Where the matter reported to the disciplinary committee is one to which section 70 applies (concerns about an officer, falling short of misconduct and not constituting an offence, which arise from a public act of bankruptcy or related event as set out in section 62(2)), the committee may make an order to either suspend the officer from practice or recommend that the Lord President deprive the officer of office or it may make an order restricting the functions or activities of the officer.
223. Where the judicial officer is convicted of an offence (including an offence related to a public act of bankruptcy or related event as set out in section 62(2)), the committee may make an order either suspending the officer or recommending that the Lord President deprive the officer of office, an order censuring the officer or an order restricting the officer’s functions or activities.
224. Subsection (6) provides that where an officer fails to comply with an order imposing a fine, the disciplinary committee may suspend the officer from practice for a specified time or recommend that the Lord President deprive the officer of office.
225. Decisions under this section are subject to appeal as set out in section 74(1). A copy of any decision made by the disciplinary committee must be sent to the officer to whom it relates (see subsection (7)).