



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 3

### [<sup>F1</sup>OFFICERS OF COURT]

#### Textual Amendments

- F1** Pt. 3 Title substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 10](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### *Scottish Civil Enforcement Commission*

### <sup>F2</sup>50 **Scottish Civil Enforcement Commission**

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#### Textual Amendments

- F2** S. 50 repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### *[<sup>F3</sup>Advisory Council on Messengers-at-Arms and Sheriff Officers]*

#### Textual Amendments

- F3** Cross-heading before s. 51 inserted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 11\(3\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

*Status: Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)*

## 51 [F<sup>4</sup>Advisory Council's] annual report

- F<sup>5</sup>(1) .....
- (2) [F<sup>6</sup>The Advisory Council on Messengers-at-Arms and Sheriff Officers (the “Advisory Council”)] must prepare a report on its activities during the whole of each financial year as soon as practicable after the end of the period to which the report relates.
- (3) A report prepared under subsection (2) above—
- F<sup>7</sup>(a) .....
- (b) may include a statistical analysis of the performance by [F<sup>8</sup>officers of court] of their functions and the undertaking by officers of activities during the period to which the report relates or any other period specified by the [F<sup>9</sup>Advisory Council] in the report.
- (4) The [F<sup>10</sup>Advisory Council] may, in preparing the report under subsection (2) above, require [F<sup>11</sup>the professional association designated by regulations under section 63(1)(a)] to provide any information [F<sup>12</sup>provided by virtue of regulations under section 63(1A) which the Advisory Council] considers necessary or proper for the purposes of preparing the report.
- (5) The [F<sup>13</sup>Advisory Council] must—
- (a) send a copy of each report prepared under subsection (2) above to the Scottish Ministers; and
- (b) publish the report.
- F<sup>14</sup>(6) .....

### Textual Amendments

- F4** Words in s. 51 title substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(2)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F5** S. 51(1) repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(a)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F6** Words in s. 51(2) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(b)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F7** S. 51(3)(a) repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(c)(i)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F8** Words in s. 51(3)(b) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(c)(ii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F9** Words in s. 51(3) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(c)(iii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F10** Words in s. 51(4) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(d)(i)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F11** Words in s. 51(4) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(d)(ii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F12** Words in s. 51(4) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(d)(iii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F13** Words in s. 51(5) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(e)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F14** S. 51(6) repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 11(1)(f)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**Status:** Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)

**Commencement Information**

**I1** S. 51(2)(3)(b)(4)(5) in force at 31.1.2011 by [S.S.I. 2011/31](#), [art. 3\(a\)](#)

PROSPECTIVE

**<sup>F15</sup>52** **Publication of guidance and other information**

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**Textual Amendments**

**F15** S. 52 repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1

**53** **Published information not to enable identification**

Information—

- (a) contained in a report prepared under section 51(2); <sup>F16</sup>...
- <sup>F16</sup>(b) .....

of this Act must not be in a form which identifies or enables the identification of [<sup>F17</sup>officers of court] or persons against whom diligence has been executed.

**Textual Amendments**

- F16** S. 53(b) and word repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 12\(a\)](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1
- F17** Words in s. 53 substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 12\(b\)](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1

**Commencement Information**

**I2** S. 53 in force at 31.1.2011 by [S.S.I. 2011/31](#), [art. 3\(b\)](#)

PROSPECTIVE

**<sup>F18</sup>54** **Register of judicial officers**

.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1

*Status:* Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)

PROSPECTIVE

**F1855 Code of practice**  
.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

**F1856 Publication of information relating to informal debt collection**  
.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

*Judicial officers*

PROSPECTIVE

**F1857 Judicial officers**  
.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**F1858 Appointment of judicial officer**  
.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**Status:** Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)

PROSPECTIVE

**F18**<sup>59</sup> **Annual fee**

.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

*Abolition of offices of messenger-at-arms and sheriff officer*

**F18**<sup>60</sup> **Abolition of offices of messenger-at-arms and sheriff officer**

.....

**Textual Amendments**

**F18** Ss. 54-60 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

*Regulation of [<sup>F19</sup>officers of court]*

**Textual Amendments**

**F19** Words in crossheading before s. 61 substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 13(2)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**61 Regulation of [<sup>F20</sup>officers of court]**

- (1) The Scottish Ministers may, by regulations—
  - (a) confer functions on;
  - (b) remove functions from; or
  - (c) otherwise modify the functions of, [<sup>F21</sup>officers of court].
- (2) The Scottish Ministers may, by regulations—
  - (a) prescribe the types of business association which [<sup>F22</sup>officers of court] may form in order to carry out their functions;
  - (b) make provision about the ownership, membership, management and control of those business associations;
  - (c) prescribe conditions which must be satisfied by those business associations;

*Status: Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)*

<sup>F23</sup>(d) .....

(3) Before making regulations under subsection (1) or (2) above, the Scottish Ministers must consult <sup>F24</sup>—

- (a) the Lord President of the Court of Session; and
- (b) each sheriff principal.]

<sup>F25</sup>(4) .....

<sup>F25</sup>(5) .....

<sup>F25</sup>(6) .....

<sup>F25</sup>(7) .....

#### Textual Amendments

- F20** Words in s. 61 title substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 13(2)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F21** Words in s. 61(1) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 13(1)(a)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F22** Words in s. 61(2)(a) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 13(1)(a)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F23** S. 61(2)(d) repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 13(1)(b)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F24** Words in s. 61(3) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 13(1)(c)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F25** S. 61(4)-(7) repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### Commencement Information

- I3** S. 61 not in force at Royal Assent see s. 227; s. 61(1)(2)(3) 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)
- I4** S. 61(1)-(3) in force at 31.1.2011 in so far as not already in force by S.S.I. 2011/31, **art. 3(c)**

VALID FROM 01/04/2011

## 62 Duty to notify Commission of bankruptcy etc.

- (1) Where, in relation to a judicial officer, any of the events mentioned in subsection (2) below occurs, the officer must, before the expiry of the period of 28 days beginning with the occurrence of the event, notify the Commission in writing of it.
- (2) The events referred to in subsection (1) above are—
- (a) the sequestration of the judicial officer;
  - (b) the granting by the officer of a trust deed for creditors;
  - (c) the making of a bankruptcy restrictions order in respect of the officer;
  - (d) the acceptance by the Accountant in Bankruptcy of a bankruptcy restrictions undertaking made by the officer;
  - (e) the making, under the Company Directors Disqualification Act 1986 (c. 46), of a disqualification order against the officer;

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- (f) where the officer is a partner in a partnership the sole or main business of which is the provision of judicial officer services—
    - (i) the granting by the partnership of a trust deed for creditors; or
    - (ii) the sequestration of the partnership;
  - (g) where the officer is a member in a limited liability partnership the sole or main business of which is the provision of judicial officer services, the commencement of the winding up of that partnership on the ground of insolvency.
- (3) In subsection (2) above, “trust deed” has the meaning given by section 5(4A) of the 1985 Act.

### *[<sup>F26</sup>Officers of court's] professional association*

#### **Textual Amendments**

**F26** Words in crossheading preceding s. 63 substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 15\(2\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

### **63** *[<sup>F27</sup>Officers of court's] professional association*

- (1) The Scottish Ministers, by regulations—
- (a) must designate an association<sup>[F28]</sup>(in this Part, the “professional association”) as the professional association for <sup>[F29]</sup>officers of court]; and
  - (b) may make provision in relation to the functions, constitution and procedures of the professional association.

<sup>[F30]</sup>(1A) Regulations under subsection (1) may require an officer of court to provide such information as the professional association reasonably considers necessary.]

- (2) The Scottish Ministers may not make regulations under subsection (1) above without first consulting—
- <sup>[F31]</sup>(a) the Lord President of the Court of Session;
    - (aa) each sheriff principal;]
    - (b) representatives of the professional association or, as the case may be, proposed professional association; and
    - (c) such other bodies or persons who appear to the Scottish Ministers to have an interest.
- (3) A person may not hold a commission as <sup>[F32]</sup>an officer of court] unless that person is a member of the professional association.

#### **Textual Amendments**

**F27** Words in s. 63 title substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 15\(2\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**F28** Words in s. 63(1)(a) inserted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 15\(1\)\(a\)\(i\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**F29** Words in s. 63(1)(a) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 15\(1\)\(a\)\(ii\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

*Status: Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)*

- F30** S. 63(1A) inserted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8) , s. 134(7) , **Sch. 4 para. 15(1)(b)** ; S.S.I. 2011/30 , art. 3(1)(3) , Sch. 1
- F31** S. 63(2)(a) (aa) substituted for s. 63(2)(a) (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8) , s. 134(7) , **Sch. 4 para. 15(1)(c)** ; S.S.I. 2011/30 , art. 3(1)(3) , Sch. 1
- F32** Words in s. 63(3) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8) , s. 134(7) , **Sch. 4 para. 15(1)(d)** ; S.S.I. 2011/30 , art. 3(1)(3) , Sch. 1

#### Commencement Information

- I5** S. 63 not in force at Royal Assent see s. 227; s. 63(1)(2) 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 )
- I6** S. 63(1)(2) in force at 31.1.2011 for specified purposes by S.S.I. 2011/31 , **art. 3(d)**

VALID FROM 01/04/2011

#### 64 Duty of professional association to forward complaints to Commission

Where the professional association receives a complaint about a judicial officer or any services provided by the officer, the association must send details of the complaint and any material which accompanies it to the Commission.

VALID FROM 01/04/2011

#### 65 Information from professional association

The Commission may require the professional association to provide any information the Commission considers necessary or proper for the purposes of—

- (a) any inspection under section 66 of this Act;
- (b) any investigation under section 67 of this Act; or
- (c) the consideration by the disciplinary committee of any matter under section 71 of this Act.

### *Investigation of [<sup>F33</sup>officers of court]*

#### Textual Amendments

- F33** Words in crossheading preceding s. 66 substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8) , s. 134(7) , **Sch. 4 para. 20(3)** ; S.S.I. 2011/30 , art. 3(1)(3) , Sch. 1

#### 66 Inspection of [<sup>F34</sup>officer of court]

- (1) The [<sup>F35</sup>Lord President of the Court of Session or any sheriff principal] may appoint a person to inspect the work or particular aspects of the work of [<sup>F36</sup>an officer of court].
- (2) A person appointed under subsection (1) above must, if required to do so by the [<sup>F37</sup>Lord President or, as the case may be, the sheriff principal], inquire into any activities undertaken for remuneration by the [<sup>F38</sup>officer of court].



*Status: Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)*

- (3) A person appointed under subsection (1) above must submit a report of the inspection and of any inquiry under subsection (2) above to the [<sup>F39</sup>Lord President or, as the case may be, the sheriff principal].
- (4) The [<sup>F40</sup>Scottish Ministers] must pay a person appointed under subsection (1) above—
- (a) a fee, unless the person is employed in the civil service and the person carries out the inspection in that person's capacity as a civil servant; and
  - (b) any outlays reasonably incurred by the person,
- in connection with an inspection, inquiry and report under this section.

#### Textual Amendments

- F34** Words in s. 66 title substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(2)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F35** Words in s. 66(1) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(1)(a)(i)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F36** Words in s. 66(1) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(1)(a)(ii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F37** Words in s. 66(2) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(1)(b)(i)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F38** Words in s. 66(2) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(1)(b)(ii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F39** Words in s. 66(3) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(1)(c)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F40** Words in s. 66(4) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 20(1)(d)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### Commencement Information

- I7** S. 66 in force at 31.1.2011 by S.S.I. 2011/31, art. 3(e)

PROSPECTIVE

### <sup>F41</sup>67 Investigation of alleged misconduct by judicial officer

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#### Textual Amendments

- F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

### <sup>F41</sup>68 Suspension of judicial officer pending outcome of disciplinary or criminal proceedings

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*Status:* Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.  
*Changes to legislation:* There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)

**Textual Amendments**  
**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

**F4169 Commission's duty in relation to offences or misconduct by judicial officer**  
 .....

**Textual Amendments**  
**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

**F4170 Commission's power in relation to judicial officer's bankruptcy etc.**  
 .....

**Textual Amendments**  
**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

*Disciplinary proceedings*

**F4171 Referrals to the disciplinary committee**  
 .....

**Textual Amendments**  
**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**F4172 Disciplinary committee's powers**  
 .....

**Status:** Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)

**Textual Amendments**

**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**F4173 Orders under sections 68 and 72: supplementary provision**

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**Textual Amendments**

**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

*Appeals*

**F4174 Appeals from decisions under sections 58, 68 and 72**

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**Textual Amendments**

**F41** Ss. 67-74 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

*Miscellaneous*

**75 [F42Officer of court's] actions void where officer has interest**

- (1) Anything done by [F43an 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) [F44An 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 [F45officer 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;

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- (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 [<sup>F46</sup>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 [<sup>F47</sup>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 [<sup>F48</sup>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 [<sup>F49</sup>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

- F42** 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
- F43** 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
- F44** 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
- F45** 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

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- F46** 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
- F47** 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
- F48** 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
- F49** 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

- I8** 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)
- I9** S. 75(1)-(6) in force at 31.1.2011 by S.S.I. 2011/31, **art. 3(f)**
- I10** 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)**

PROSPECTIVE

#### **F50** 76 Measure of damages payable by judicial officer for negligence or other fault

#### Textual Amendments

- F50** S. 76 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### **77** Effect of code of practice

- (1) [<sup>F51</sup>An officer of court] must, in exercising the officer's functions or undertaking any activities, have regard to the provisions (so far as they are applicable) of any code of practice published under section [<sup>F52</sup>63A] of this Act.
- (2) A failure on the part of [<sup>F53</sup>an officer of court] to comply with any provision of a code of practice does not of itself render the officer liable to any criminal or civil proceedings.
- (3) A code of practice is admissible in evidence in any criminal or civil proceedings.
- (4) If any provision of a code of practice appears to—
  - (a) the court or tribunal conducting any civil or criminal proceedings; or
  - [<sup>F54</sup>(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;]

to be relevant to any question arising in the proceedings, that provision of the code may be taken into account in determining that question.

#### Textual Amendments

- F51** Words in s. 77(1) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 22(a)(i)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

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**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3. (See end of Document for details)

- F52** Word in s. 77(1) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 22(a)(ii)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F53** Words in s. 77(2) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 22(b)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F54** S. 77(4)(b) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 22(c)**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### Commencement Information

- I11** S. 77 in force at 31.1.2011 by S.S.I. 2011/31, **art. 3(g)**

## 78 Electronic publications and communications

In this Part—

- (a) references to “publishing” include publishing by electronic means and cognate expressions are to be construed accordingly; and
- (b) any reference to a notification, <sup>F55</sup>... being in writing includes a reference to that notification, <sup>F55</sup>... being an electronic communication.

#### Textual Amendments

- F55** Words in s. 78 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 23**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

#### Commencement Information

- I12** S. 78 in force at 31.1.2011 by S.S.I. 2011/31, **art. 3(g)**

**Status:**

Point in time view as at 31/01/2011. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 3.