



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 3

### ENFORCEMENT

#### *Judicial officers*

#### 57 **Judicial officers**

- (1) There is established an office to be known as judicial officer and any person who holds a commission as officer has the functions conferred by virtue of this Act and any other enactment.
- (2) A person may be granted a commission as a judicial officer by the Lord President of the Court of Session but only on the recommendation of the Commission under section 58(1) of this Act.
- (3) Where the Lord President grants a person a commission as a judicial officer, the Commission must intimate that decision to—
  - (a) the person who applied for the commission; and
  - (b) the professional association.
- (4) A judicial officer who holds a commission granted under subsection (2) above may carry out that officer's functions in the whole of Scotland.
- (5) Subject to section 60(2) of this Act, any person who wishes to be a judicial officer must apply to the Commission.
- (6) A judicial officer may be deprived of office by the Lord President but only where—
  - (a) the disciplinary committee of the Commission (in this Part, the "disciplinary committee") recommends under section 72(5)(a)(ii) or (6)(b) of this Act that the officer be deprived of office;
  - (b) any time limit within which the officer may appeal under section 74 of this Act has expired; and
  - (c) no such appeal has been made.

- (7) Where the Lord President deprives a judicial officer of office, the Commission must intimate that decision to—
- (a) the judicial officer;
  - (b) the Court of Session;
  - (c) every sheriff principal; and
  - (d) the professional association.

## **58 Appointment of judicial officer**

- (1) Where the Commission is satisfied—
- (a) that a person who applies to it is a fit and proper person to be appointed as a judicial officer; and
  - (b) having regard to—
    - (i) the number of persons already holding commission as officers; and
    - (ii) any other matters the Commission considers relevant,that the appointment is appropriate,
- the Commission must, subject to section 63(3) of this Act, recommend that the Lord President of the Court of Session grants that person a commission as an officer.
- (2) The Commission must send a copy of its decision on an application for a commission as a judicial officer to the person who applied for the commission.
- (3) Where the Lord President grants a person a commission as a judicial officer under section 57(2) of this Act, the Commission must issue an official identity card, in a form determined by the Commission, to the officer.
- (4) A judicial officer carrying out an officer's functions must, on being requested to do so, exhibit the official identity card issued under subsection (3) above.
- (5) The Commission may make rules about—
- (a) the procedure for applications for a commission as a judicial officer;
  - (b) the qualifications that a person must have before that person may be granted a commission under section 57(2) of this Act;
  - (c) the examinations that a person may be required to undertake in pursuance of a qualification prescribed by rules made under paragraph (b) above;
  - (d) the training that a person must undertake before that person may be granted a commission; and
  - (e) any other matters in relation to applications as it considers appropriate.

## **59 Annual fee**

- (1) The Commission may make rules requiring every judicial officer holding a commission to pay an annual fee to the Commission.
- (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 Commission considers appropriate.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Anything done by the Commission under this section must be approved by the Scottish Ministers.