



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 3

[^{F1}OFFICERS OF COURT]

Regulation of [^{F1}officers of court]

Textual Amendments

- F1** 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 [^{F2}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,
[^{F3}officers of court].
- (2) The Scottish Ministers may, by regulations—
 - (a) prescribe the types of business association which [^{F4}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;
 - ^{F5}(d)
- (3) Before making regulations under subsection (1) or (2) above, the Scottish Ministers must consult [^{F6}—
 - (a) the Lord President of the Court of Session; and
 - (b) each sheriff principal.]

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- ^{F7}(4)
- ^{F7}(5)
- ^{F7}(6)
- ^{F7}(7)

Textual Amendments

- F2** 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
- F3** 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
- F4** 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
- F5** S. 61(2)(d) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 13\(1\)\(b\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F6** 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
- F7** S. 61(4)-(7) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1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

- I1** 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)
- I2** 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\(c\)](#)

62 Duty to notify [^{F8}Lord President and sheriff principal] of bankruptcy etc.

- (1) Where, in relation to [^{F9}an officer of court], 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—
- ^{F10}(a) in the case of a messenger-at-arms, notify the Lord President of the Court of Session in writing of the event;
- (b) in the case of a sheriff officer, notify the sheriff principal from whom the officer holds a commission in writing of the event.]
- (2) The events referred to in subsection (1) above are—
- (a) the sequestration of the [^{F11}officer of court];
- (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;
- ^{F12}(d)
- (e) the making, under the Company Directors Disqualification Act 1986 (c. 46), of a disqualification order against the officer;
- (f) where the officer is a partner in a partnership the sole or main business of which is the provision of [^{F13}officer of court] 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 [^{F14}officer of court] services,

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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.

Textual Amendments

- F8** Words in title of s. 62 substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 14(2)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F9** Words in s. 62(1) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 14(1)(a)(i)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F10** Words in s. 62(1) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 14(1)(a)(ii)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F11** Words in s. 62(2)(a) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 14(1)(b)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F12** S. 62(2)(d) repealed (1.4.2015) by Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11), s. 57(2), **Sch. 4**; S.S.I. 2014/261, art. 3 (with arts. 4-712) (as amended by S.S.I. 2015/54, art. 2)
- F13** Words in s. 62(2)(f) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 14(1)(b)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F14** Words in s. 62(2)(g) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 14(1)(b)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2

Commencement Information

- I3** S. 62 in force at 1.4.2011 by S.S.I. 2011/31, **art. 4**

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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](#)
- Act applied (with modifications) by [S.I. 2021/716 Sch. 3 para. 23](#)