



# 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**

.....

#### 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- F2** S. 50 repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1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: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Bankruptcy and Diligence etc. (Scotland) Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## 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: This version of this part contains provisions that are prospective.*

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#### 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

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#### 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](#)

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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

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PROSPECTIVE

**F1859 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*

**F1860 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 [F19 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 [F20 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, [F21 officers of court].
- (2) The Scottish Ministers may, by regulations—
  - (a) prescribe the types of business association which [F22 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;

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<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)**

## 62 Duty to notify [<sup>F26</sup>Lord President and sheriff principal] of bankruptcy etc.

(1) Where, in relation to [<sup>F27</sup>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—

- <sup>F28</sup>(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 [<sup>F29</sup>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;
- <sup>F30</sup>(d) .....
- (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 [<sup>F31</sup>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 [<sup>F32</sup>officer of court] 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.

#### Textual Amendments

- F26** 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
- F27** 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
- F28** 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
- F29** 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
- F30** 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)
- F31** 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
- F32** 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

- I5** S. 62 in force at 1.4.2011 by S.S.I. 2011/31, art. 4

*[<sup>F33</sup>Officers of court's] professional association*

#### Textual Amendments

- F33** 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>F34</sup>Officers of court's] professional association

- (1) The Scottish Ministers, by regulations—
- (a) must designate an association [<sup>F35</sup>(in this Part, the “professional association”)] as the professional association for [<sup>F36</sup>officers of court]; and
  - (b) may make provision in relation to the functions, constitution and procedures of the professional association.

[<sup>F37</sup>(1A) Regulations under subsection (1) may require an officer of court to provide such information as the professional association reasonably considers necessary.]

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- (2) The Scottish Ministers may not make regulations under subsection (1) above without first consulting—
- [<sup>F38</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>F39</sup>an officer of court] unless that person is a member of the professional association.

#### Textual Amendments

- F34** 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
- F35** 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
- F36** 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
- F37** 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
- F38** 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
- F39** 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

- I6** 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 )
- I7** S. 63(1)(2) in force at 31.1.2011 for specified purposes by [S.S.I. 2011/31](#) , [art. 3\(d\)](#)
- I8** S. 63(1)(2) in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/31](#) , [art. 4](#)
- I9** S. 63(3) in force at 1.4.2011 by [S.S.I. 2011/31](#) , [art. 4](#)

#### [<sup>F40</sup>63A Code of practice

- (1) The professional association—
- (a) must prepare and publish a code of practice in relation to the functions of officers of court; and
  - (b) may prepare and publish such a code in relation to the undertaking of activities by such officers.
- (2) The professional association may revise the whole or any part of a code published under this section.
- (3) Where a code or any part of a code is revised under subsection (2), the professional association—
- (a) in a case where the revision results in substantial changes, must publish the revised code;
  - (b) in any other case, may publish the revised code.



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- (4) The professional association must not publish a code of practice or a revised code of practice under this section without the prior approval of the Lord President of the Court of Session.
- (5) The professional association must send a copy of each code of practice published under this section to—
  - (a) the Scottish Ministers;
  - (b) the Lord President of the Court of Session;
  - (c) each sheriff principal; and
  - (d) each officer of court.]

#### Textual Amendments

**F40** S. 63A inserted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 16](#); S.S.I. 2011/30, art. 3(2)(3), Sch. 2

### 64 Duty of professional association to forward complaints <sup>F41</sup> ...

Where the professional association receives a complaint about [<sup>F42</sup>an officer of court] or any services provided by the officer, the association must send details of the complaint and any material which accompanies it —

- [<sup>F43</sup>(a) to the Lord President of the Court of Session;
- (b) in the case of a complaint about a messenger-at-arms, to the sheriff principal from whom the messenger-at-arms holds a commission as a sheriff officer; and
- (c) in the case of a complaint about a sheriff officer, to the sheriff principal from whom the sheriff officer holds a commission.]

#### Textual Amendments

**F41** Words in s. 64 repealed (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 17\(2\)](#); S.S.I. 2011/30, art. 3(2)(3), Sch. 2

**F42** Words in s. 64 substituted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 17\(1\)\(a\)](#); S.S.I. 2011/30, art. 3(2)(3), Sch. 2

**F43** Words in s. 64 substituted (1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 17\(1\)\(b\)](#); S.S.I. 2011/30, art. 3(2)(3), Sch. 2

#### Commencement Information

**I10** S. 64 in force at 1.4.2011 by [S.S.I. 2011/31](#), [art. 4](#)

### 65 Information from professional association

The [<sup>F44</sup>Lord President of the Court of Session or any sheriff principal] may require the professional association to provide any information the [<sup>F45</sup>Lord President or, as the case may be, sheriff principal] considers necessary or proper for the purposes of—

- (a) any inspection under section 66 of this Act;
- (b) any investigation under section [<sup>F46</sup>79(2) of the 1987 Act]; or
- [<sup>F47</sup>(c) any disciplinary proceedings brought under section 79(3) of that Act.]

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#### Textual Amendments

- F44** Words in s. 65 substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 18(a)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F45** Words in s. 65 substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 18(b)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F46** Words in s. 65(b) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 18(c)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2
- F47** S. 65(c) substituted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 18(d)**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2

#### Commencement Information

- I11** S. 65 in force at 1.4.2011 by S.S.I. 2011/31, **art. 4**

*[<sup>F48</sup> Annual fee for officers of court]*

#### Textual Amendments

- F48** S. 65A and preceding cross-heading inserted (1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 para. 19**; S.S.I. 2011/30, art. 3(2)(3), Sch. 2

### 65A Annual fee

- (1) The professional association may make rules requiring every officer of court holding a commission to pay an annual fee to the association.
- (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 professional association considers appropriate.
- (3) Rules under this section may be made only with the approval of the Lord President of the Court of Session.]

*Investigation of [<sup>F49</sup> officers of court]*

#### Textual Amendments

- F49** 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>F50</sup> officer of court]

- (1) The [<sup>F51</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>F52</sup> an officer of court].

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Bankruptcy and Diligence etc. (Scotland) Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (2) A person appointed under subsection (1) above must, if required to do so by the [<sup>F53</sup>Lord President or, as the case may be, the sheriff principal], inquire into any activities undertaken for remuneration by the [<sup>F54</sup>officer of court].
- (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>F55</sup>Lord President or, as the case may be, the sheriff principal].
- (4) The [<sup>F56</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

- F50** 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
- F51** 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
- F52** 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
- F53** 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
- F54** 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
- F55** 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
- F56** 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

- I12** S. 66 in force at 31.1.2011 by [S.S.I. 2011/31](#), [art. 3\(e\)](#)

PROSPECTIVE

### <sup>F57</sup>67 Investigation of alleged misconduct by judicial officer

.....

#### Textual Amendments

- F57** 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

*Status: This version of this part contains provisions that are prospective.*

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PROSPECTIVE

**F57 68 Suspension of judicial officer pending outcome of disciplinary or criminal proceedings**

.....

**Textual Amendments**

**F57** 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

**F57 69 Commission's duty in relation to offences or misconduct by judicial officer**

.....

**Textual Amendments**

**F57** 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

**F57 70 Commission's power in relation to judicial officer's bankruptcy etc.**

.....

**Textual Amendments**

**F57** 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*

**F57 71 Referrals to the disciplinary committee**

.....

*Status: This version of this part contains provisions that are prospective.*

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**Textual Amendments**

**F57** 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

**<sup>F57</sup>72** **Disciplinary committee's powers**

.....

**Textual Amendments**

**F57** 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

**<sup>F57</sup>73** **Orders under sections 68 and 72: supplementary provision**

.....

**Textual Amendments**

**F57** 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*

**<sup>F57</sup>74** **Appeals from decisions under sections 58, 68 and 72**

.....

**Textual Amendments**

**F57** 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** **[<sup>F58</sup>Officer of court's] actions void where officer has interest**

- (1) Anything done by [<sup>F59</sup>an 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) [<sup>F60</sup>An 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

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- (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 [F61 officer 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;
    - (ii) holds, either alone or along with another 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 [F62 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 [F63 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 [F64 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 [F65 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.

*Status:* This version of this part contains provisions that are prospective.

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#### Textual Amendments

- F58** 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
- F59** 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
- F60** 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
- F61** 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
- F62** 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
- F63** 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
- F64** 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
- F65** 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

- I13** 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)
- I14** S. 75(1)-(6) in force at 31.1.2011 by [S.S.I. 2011/31](#), [art. 3\(f\)](#)
- I15** 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

#### <sup>F66</sup>76 Measure of damages payable by judicial officer for negligence or other fault

.....

#### Textual Amendments

- F66** 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>F67</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>F68</sup>63A] of this Act.
- (2) A failure on the part of [<sup>F69</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

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[<sup>F70</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

- F67** 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
- F68** 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
- F69** 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
- F70** 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

- I16** 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>F71</sup>... being in writing includes a reference to that notification, <sup>F71</sup>... being an electronic communication.

#### Textual Amendments

- F71** 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

- I17** S. 78 in force at 31.1.2011 by S.S.I. 2011/31, **art. 3(g)**



**Status:**

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**Changes to legislation:**

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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](#)