



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 3

ENFORCEMENT

Miscellaneous

75 Judicial officer's actions void where officer has interest

- (1) Anything done by a judicial officer in exercising or purporting to exercise a prescribed function in relation to a matter in which the officer has an interest is void.
- (2) A judicial officer 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 judicial officer;
 - (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 a judicial officer is to be construed as a reference to a co-director, partner, employer, employee, agent or principal of the officer;

Status: This is the original version (as it was originally enacted).

- (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 a judicial officer’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 judicial officer of the prescribed function in relation to the debt concerned.
- (7) In subsections (1) and (6) above, “prescribed function” means any function conferred on a judicial officer by virtue of this Act or any other enactment which the Scottish Ministers by regulations specify for the purposes of this section.