



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 2

FLOATING CHARGES

Registration and creation etc.

PROSPECTIVE

38 Creation of floating charges

- (1) It continues to be competent, for the purpose of securing any obligation to which this subsection applies, for a company to grant in favour of the creditor in the obligation a charge (known as a “floating charge”) over all or any part of the property which may from time to time be comprised in the company's property and undertaking.
- (2) Subsection (1) above applies to any debt or other obligation incurred or to be incurred by, or binding upon, the company or any other person.
- (3) From the coming into force of this section, a floating charge is (subject to ^{F1}subsection (3A) and] ^{F1}section 39 of this Act) created only when a document—
 - (a) granting a floating charge; and
 - (b) subscribed by the company granting the charge,is registered in the Register of Floating Charges.

^{F2}(3A) If a floating charge is granted in favour of a central institution, it is created only when the document granting the floating charge is executed by the company granting the charge.]

^{F2}(4) References in this Part to a document which grants a floating charge are to a document by means of which a floating charge is granted.

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 38. (See end of Document for details)

Textual Amendments

- F1** Words in s. 38(3) inserted (21.2.2009) by Banking Act 2009 (c. 1), **ss. 253(2)(a)**, 263(1)(2) (with s. 247); S.I. 2009/296, **art. 3**, Sch. para. 11
- F2** S. 38(3A) inserted (21.2.2009) by Banking Act 2009 (c. 1), **ss. 253(2)(b)**, 263(1)(2) (with s. 247); S.I. 2009/296, **art. 3**, Sch. para. 11

Status:

This version of this provision is prospective.

Changes to legislation:

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 38.