



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 3

ENFORCEMENT

Regulation of judicial officers

61 Regulation of judicial officers

- (1) The Scottish Ministers may, by regulations—
 - (a) confer functions on;
 - (b) remove functions from; or
 - (c) otherwise modify the functions of, judicial officers.
- (2) The Scottish Ministers may, by regulations—
 - (a) prescribe the types of business association which judicial officers 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;
 - (d) make provision regulating the fees and charges which may be levied by an officer in the performance of the officer's functions.
- (3) Before making regulations under subsection (1) or (2) above, the Scottish Ministers must consult the Commission.
- (4) The Commission may make rules—
 - (a) regulating, without prejudice to sections 67 to 73 of this Act, the conduct of judicial officers;
 - (b) prohibiting the undertaking by officers of activities which appear to the Commission to be incompatible with their functions;

Status: This is the original version (as it was originally enacted).

- (c) permitting, subject to any conditions the Commission provides for in the rules, the undertaking by officers for remuneration of activities, not appearing to the Commission to be incompatible with their functions;
 - (d) which make provision—
 - (i) about the accounts and finances of officers, including the keeping and auditing of officers' accounts;
 - (ii) for the keeping of records by officers and the inspection of those records; and
 - (iii) about the finding of caution by officers; and
 - (e) regulating other matters in relation to officers that the Commission considers appropriate.
- (5) A judicial officer must not undertake any activity which is not connected with the officer's functions for remuneration unless the officer obtains the permission of the Commission.
- (6) The Commission must not withhold permission under subsection (5) above unless it appears to the Commission that the undertaking by the judicial officer of the activity would be incompatible with the officer's functions.
- (7) The Commission may—
- (a) attach conditions to; or
 - (b) revoke,
- any permission granted under subsection (5) above.

62 Duty to notify Commission of bankruptcy etc.

- (1) Where, in relation to a judicial officer, 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, notify the Commission in writing of it.
- (2) The events referred to in subsection (1) above are—
- (a) the sequestration of the judicial officer;
 - (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;
 - (d) the acceptance by the Accountant in Bankruptcy of a bankruptcy restrictions undertaking made by the officer;
 - (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 judicial officer 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 judicial officer 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.