



# 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 <sup>F1</sup>subsection (3A) and] <sup>F1</sup>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.

<sup>F2</sup>(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.]

<sup>F2</sup>(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.

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**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)

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#### 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

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