

*These notes relate to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) which received Royal Assent on 15 January 2007*

# **BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007**

---

## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### *Schedule 5 – Minor and Consequential Amendments (Introduced by Section 226)*

#### *Paragraph 16 – Debtors (Scotland) Act 1987*

855. The majority of the amendments in this paragraph of schedule 5 are amendments of Part 1 of the 1987 Act are concerned with the effect of the making of time to pay directions, interim orders and time to pay orders on diligence.
856. Provision was already made in Part 1 for the effect on existing diligences (such as attachment and arrestment). The amendments here expand the provision in Part 1 to cover the new diligences of interim attachment, money attachment, land attachment and residual attachment. Provision is also made for the effect of time to pay on arrestments to which section 73J applies (automatic release of arrested funds). (In the case of residual attachment, the power in section 129(8) of this Act to make provision about this should be born in mind – see paragraph 379379 above.)
857. In summary—
- the making of a time to pay direction stops diligence being executed against the debtor;
  - an application for a time to pay order may be made, and an order granted, even though diligence has been started but only where it has not reached such an advanced stage that the creditor should be allowed to complete it (e.g. in a land attachment, the sheriff has granted warrant for sale of the attached land);
  - the making of an interim order (an order made pending a decision on an application for a time to pay order) “freezes” existing diligences; and
  - the making of a time to pay order stops diligence being executed and freezes diligences already commenced.