



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 8

ATTACHMENT OF MONEY

Release of money attached

184 Effect of payment order

- (1) A payment order authorises the judicial officer—
 - (a) to realise the value of money attached; and
 - (b) subject to section 37 of the 1985 Act (effect of sequestration on diligence), to dispose of the proceeds of the money attachment by—
 - (i) retaining such amount as necessary to meet the fees and outlays of the officer;
 - (ii) paying to the creditor the remainder of those proceeds so far as necessary to meet the sum recoverable by the money attachment; and
 - (iii) paying to the debtor any surplus remaining.
- (2) For the purposes of subsection (1) above, the payment order authorises the judicial officer—
 - (a) to act as the irrevocable agent of the debtor in relation to any banking instrument attached; and
 - (b) to take any of the steps mentioned in subsection (3) below.
- (3) Those steps are—
 - (a) presenting the instrument for payment;
 - (b) if instructed by the creditor to do so, raising any action for payment that would have been open to the debtor to raise against any person liable to honour the instrument;
 - (c) except where the instrument is not negotiable, negotiating the instrument—
 - (i) for value; or

Status: This is the original version (as it was originally enacted).

- (ii) to the creditor for value credited against the sum recoverable by the money attachment;
 - (d) any other steps the debtor could have taken in relation to the instrument before the money attachment was executed.
- (4) The judicial officer must, in taking any of the steps referred to in subsection (3) above, obtain the highest amount for the instrument as is reasonably practicable.
- (5) In subsection (1)(b) above, “proceeds of the money attachment” includes any amount—
 - (a) deposited in a bank account by virtue of section 181(6) or 185(4)(b)(iii) of this Act;
 - (b) obtained as a result of taking any of the steps mentioned in subsection (3) above; and
 - (c) received by the judicial officer by virtue of section 191(2)(c) of this Act.