



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 8

### ATTACHMENT OF MONEY

#### *General and miscellaneous*

#### **195 Recovery from debtor of expenses of money attachment**

- (1) Expenses which, in accordance with schedule 3 to this Act, are chargeable against the debtor are to be recoverable from the debtor by the money attachment but not by any other legal process.
- (2) Where any expenses such as are mentioned in subsection (1) above have not been recovered by the time the proceeds of the money attachment are disposed of under a payment order, or the money attachment otherwise ceases to have effect, they cease to be chargeable against the debtor.
- (3) The sheriff must grant decree for payment of any expenses awarded by the sheriff against the debtor in favour of the creditor under paragraph 4 of schedule 3 to this Act.
- (4) Subsection (5) below applies where a money attachment is—
  - (a) in effect immediately before the date of sequestration (within the meaning of the [F1Bankruptcy (Scotland) Act 2016]) of the debtor's estate;
  - (b) in effect immediately before the appointment of an administrator under Part II of the Insolvency Act 1986 (c. 45), in relation to the debtor;
  - (c) in effect against property of the debtor immediately before a floating charge attaches to all or part of that property under section 53(7) (attachment on appointment of receiver by holder of charge) or 54(6) (attachment on appointment of receiver by court) of that Act of 1986;
  - (d) in effect immediately before the commencement of the winding up, under Part IV or V of that Act of 1986, of the debtor; or
  - (e) rendered unenforceable by virtue of the creditor entering into a composition contract or acceding to a trust deed for creditors or by virtue of the subsistence

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**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 195. (See end of Document for details)

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of a protected trust deed within the meaning of Schedule 5 to [F2that Act of 2016].

(5) Where this subsection applies—

- (a) the expenses of the money attachment which were chargeable against the debtor remain so chargeable; and
- (b) if the debtor's obligation to pay the expenses is not discharged under or by virtue of the sequestration, administration order, receivership, winding up, composition contract or trust deed, those expenses are recoverable by further money attachment.

#### Textual Amendments

- F1** Words in s. 195(4)(a) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 24\(3\)\(a\)](#) (with [ss. 232, 234\(3\), 235, 236](#)); S.S.I. 2016/294, reg. 2
- F2** Words in s. 195(4)(e) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 24\(3\)\(b\)](#) (with [ss. 232, 234\(3\), 235, 236](#)); S.S.I. 2016/294, reg. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 195.