



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 9

### DILIGENCE AGAINST EARNINGS

#### **199 Simultaneous operation of arrestments against earnings where net earnings insufficient**

(1) In section 58 of the 1987 Act (simultaneous operation of earnings arrestment and current maintenance arrestment), for subsection (2) substitute—

“(2) If on any pay-day  $N$  is less than  $S$ , the employer shall operate both the earnings arrestment and the current maintenance arrestment in accordance with subsection (3) below.

(3) The employer shall—

(a) for the purposes of section 47(1) of this Act, deduct the sum equal to—

$$N \times \frac{E}{S}$$

; and

(b) for the purposes of section 51(1) of this Act, deduct the sum equal to—

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**Changes to legislation:** There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 199. (See end of Document for details)

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$$N \times \frac{C}{S}$$

(4) In subsections (2) and (3) above—

N is the amount of any net earnings in so far as they exceed the sum mentioned in subsection (2)(b) of section 53 of this Act for the number of days mentioned in subsection (2)(a) of that section;

E is the sum which the employer is required to deduct under section 47(1) of this Act;

C is the sum which the employer is required to deduct under section 51(1) of this Act; and

S is the total of E and C.”.

(2) In section 63(5)(b) of that Act (sum payable under conjoined arrestment order including both ordinary debts and current maintenance), for “all the debts were current maintenance” substitute “ the only debts were the current maintenance debts ”.

(3) In Schedule 3 to that Act (disbursement under conjoined arrestment order)—

(a) in paragraph 4, for the words from “priority” to the end substitute “ disbursement shall be in accordance with paragraph 4A below. ”; and

(b) after that paragraph, insert—

“4A

Where—

(a) only one of the debts is an ordinary debt, the creditor in that debt shall be paid the sum equal to—

$$D \times \frac{E}{S}$$

;

(b) more than one of the debts is an ordinary debt, each of the creditors in those debts, out of the sum mentioned in subparagraph (a) above, shall be paid the same proportion of the amount of that creditor's debt;

(c) only one of the debts is current maintenance, the creditor in that debt shall be paid the sum equal to—

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$$D \times \frac{C}{S}$$

- ;
- (d) more than one of the debts is current maintenance, each of the creditors in those debts, out of the sum mentioned in subparagraph (c) above, shall be paid the same proportion of the amount of that creditor's debt,

where—

D is the sum deducted under subsection (5) of section 63 of this Act;

E is the sum deducted under paragraph (a) of that subsection;

C is the sum which would, if the only debts were the current maintenance debts, be deducted under subsection (3) of that section; and

S is the total of E and C.”.

**Changes to legislation:**

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 199.