



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 9

DILIGENCE AGAINST EARNINGS

203 Provision of information

After section 70 of the 1987 Act, insert—

“70A Employer's duty to provide information

- (1) Where an employer receives, in relation to a debtor—
 - (a) an earnings arrestment schedule;
 - (b) a current maintenance arrestment schedule; or
 - (c) a copy of a conjoined arrestment order,the employer shall, as soon as is reasonably practicable, send to the creditor or, in the case of a conjoined arrestment order, the sheriff clerk, the information mentioned in subsection (3) below.
- (2) The employer shall, provided the debt has not been extinguished, send, on or as soon as is reasonably practicable after the dates mentioned in subsection (4) below, to the creditor or, as the case may be, the sheriff clerk the information mentioned in subsection (3) below.
- (3) The information referred to in subsection (1) above is—
 - (a) how the debtor is paid (whether weekly, monthly or otherwise);
 - (b) the date of the debtor's pay-day next following—
 - (i) where subsection (1) above applies, receipt of the schedule or order; or
 - (ii) where subsection (2) above applies, the date mentioned in subsection (4) below;
 - (c) the sum deducted on that pay-day and the net earnings from which it is so deducted; and

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- (d) any other information which the Scottish Ministers may, by regulations, prescribe.
- (4) The dates referred to in subsection (2) above are—
- (a) the later of—
 - (i) 6 April next following receipt of the schedule or order; or
 - (ii) the day falling 6 months after receiving the schedule or order;
 and
 - (b) each 6 April thereafter.
- (5) Notwithstanding subsections (1) and (2) above, the employer shall, if the debtor ceases for whatever reason to be employed by the employer, give notice, as soon as is reasonably practicable, to the creditor or, as the case may be, the sheriff clerk—
- (a) of that fact; and
 - (b) in so far as is known to the employer, the name and address of any new employer of the debtor.
- (6) Where an employer sends information under subsection (1) or (2) above or gives notice under subsection (5) above, the employer shall, as soon as is reasonably practicable, send a copy of that information or notice to the debtor.

70B Failure to give notice under section 70A(5)

- (1) Where an employer fails without reasonable excuse to give notice under section 70A(5) of this Act, the sheriff may, on the application of any creditor, make an order requiring the employer—
- (a) to provide such information as is known to the employer as to the debtor's employment after ceasing to be employed by that employer;
 - (b) to pay to the creditor an amount not exceeding twice the sum which the employer would have been required to deduct on the debtor's next pay-day had the debtor still been employed by that employer.
- (2) Where a sum is paid by virtue of an order under subsection (1)(b) above—
- (a) the debt owed by the debtor to the creditor shall be reduced by that sum; and
 - (b) the employer shall not be entitled to recover that sum from the debtor.
- (3) An employer aggrieved by an order under subsection (1) above may, before the expiry of the period of 14 days beginning with the day on which the order is made, appeal, on point of law only, to the sheriff principal, whose decision shall be final.

70C Creditor's duty to provide information

- (1) A creditor who is receiving payment from a debtor by virtue of—
- (a) an earnings arrestment;
 - (b) a current maintenance arrestment; or
 - (c) a conjoined arrestment order,
- shall, provided the debt has not been extinguished, send, on or as soon as is reasonably practicable after the dates mentioned in subsection (2) below, to the

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employer or, in the case of a conjoined arrestment order, the sheriff clerk the information mentioned in subsection (3) below.

- (2) The dates referred to in subsection (1) above are—
- (a) the later of—
 - (i) 6 April next following service of the schedule of arrestment or, as the case may be, order; or
 - (ii) the day falling 6 months after the service of the schedule or order; and
 - (b) each 6 April thereafter.
- (3) The information referred to in subsection (1) above is—
- (a) the sum owed by the debtor to the creditor;
 - (b) the amounts received by the creditor by virtue of the arrestment or order; and
 - (c) the dates of payment of those amounts.

70D Debtor's duty to provide information

Where a debtor ceases to be employed by an employer who is deducting sums under this Part of this Act, the debtor shall give notice to the creditor or, where those sums are being deducted by virtue of a conjoined arrestment order, the sheriff clerk—

- (a) of that fact; and
- (b) of the name and address of any new employer.”.

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