

**Changes to legislation:** Bankruptcy and Diligence etc. (Scotland) Act 2007, SCHEDULE 3 is up to date with all changes known to be in force on or before 14 January 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### SCHEDULE 3

(introduced by section 196(1))

#### EXPENSES OF MONEY ATTACHMENT

##### *Expenses chargeable against the debtor*

- 1 There is to be chargeable against the debtor any expenses incurred—
- (a) subject to section 90(7) of the 1987 Act, in serving a charge;
  - (b) in executing a money attachment;
  - (c) in relation to a valuation arranged under section 180(1) of this Act (including the fees and outlays of the person who carried out the valuation);
  - (d) in making a report under section 182(1) of this Act but not in applying for an extension of time for the making of such a report;
  - (e) in applying for a payment order under section 183(2) of this Act;
  - (f) in granting a receipt and making a report to the sheriff under section 188(4) of this Act;
  - (g) in giving a statement under section 189(1) of this Act;
  - (h) in removing money from the place at which it was found;
  - (i) in opening shut and lockfast places for that purpose;
  - (j) by a solicitor in instructing [<sup>F1</sup>an officer of court] to take any of the steps specified in this paragraph.

#### Annotations:

#### Amendments (Textual)

- F1** Words in Sch. 3 para. 1(j) substituted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 para. 25(b); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

- 2 Expenses chargeable against the debtor by virtue of paragraph 1(e) above must be calculated, whether or not the application is opposed by the debtor, as if it were unopposed.

##### *Circumstances where no expenses are due to or by either party*

- 3 Subject to paragraph 4 below, the debtor shall not be liable to the creditor nor the creditor to the debtor for any expenses incurred by the other party in connection with—
- (a) an application under section 181(1), 185(1) or 186 of this Act;
  - (b) any objections to such an application;
  - (c) an opposition, under section 183(6) of this Act, to an application for a payment order;
  - (d) a hearing held by virtue of section 183(8), 186(6) or 190(7) of this Act.
- 4 If—
- (a) an application mentioned in paragraph 3(a) above is frivolous;
  - (b) such an application is opposed on frivolous grounds;
  - (c) an application for a payment order is opposed on frivolous grounds; or
  - (d) a party requires, on frivolous grounds, a hearing mentioned in paragraph 3(d) above to be held,

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the sheriff may award a sum of expenses, not exceeding such amount as may be prescribed by the Scottish Ministers by regulations, against the party acting frivolously in favour of the other party.

**Annotations:**

**Commencement Information**

- I1** Sch. 3 para. 4 wholly in force at 23.11.2009; Sch. 3 para. 4 not in force at Royal Assent see s. 227; Sch. 3 para. 4 in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(4), Sch. 3 (with arts. 4-6, 10); Sch. 3 para. 4 in force at 23.11.2009 in so far as not already in force by S.S.I. 2009/369, art. 3 (with transitional modifications in art. 4)

- 5 Paragraphs 3 and 4 above do not apply to expenses incurred in connection with an appeal under section 194(1).

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#)