



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 4

LAND ATTACHMENT AND RESIDUAL ATTACHMENT

CHAPTER 2

ATTACHMENT OF LAND

The sale

116 Proceeds of sale

- (1) Where attached land is sold in execution of a warrant for sale, the proceeds of the sale must be disbursed by the appointed person in the following order—
 - (a) subject to subsection (2) below, any expenses due to the creditor by virtue of section 114(2)(a) of this Act;
 - (b) any sums due to any other creditor holding a security or diligence over the land which ranks prior to the land attachment;
 - (c) any sums due to—
 - (i) the attaching creditor in respect of the sum recoverable by the land attachment (other than any such expenses as are mentioned in paragraph (a) above); and
 - (ii) any creditor under a security or diligence which ranks *pari passu* with the land attachment;
 - (d) any sums due to any other creditor under any security or diligence which ranks after the land attachment; and
 - (e) subject to section 37(8C)(b) of the 1985 Act, any balance due to the debtor.
- (2) Subject to section 113(3) of this Act, the appointed person may deduct and retain from the sum mentioned in subsection (1)(a) above such remuneration and outlays incurred by the appointed person in executing the warrant for sale.

Status: This is the original version (as it was originally enacted).

- (3) Where there is a balance due to the debtor, the appointed person must pay it to the debtor or any person authorised to give a receipt for the balance on the debtor's behalf.
- (4) Where, by virtue of subsection (1) above, a creditor receives the sums due to the creditor under a security or diligence, that creditor must grant a discharge of that security or diligence.
- (5) If the appointed person is unable to obtain from—
 - (a) the debtor; or
 - (b) any creditor of the debtor;a receipt or discharge in respect of the disbursement of the proceeds of sale, the appointed person may consign the amount due in the sheriff court for the person having right to it.
- (6) Any such consignment discharges the obligation to pay the amount due; and a certificate of the sheriff clerk is sufficient evidence of the discharge.