



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 8

### ATTACHMENT OF MONEY

#### *General and miscellaneous*

#### **191 Money in common ownership**

- (1) Money which is owned in common by a debtor and a third party may be attached in satisfaction of the debts of the debtor.
- (2) Where at any time before the disposal of attached money—
  - (a) a third party claims to own the money in common with the debtor;
  - (b) either—
    - (i) the judicial officer is satisfied that the claim is valid; or
    - (ii) the sheriff, on the third party's application, makes an order stating that the sheriff is so satisfied; and
  - (c) the third party pays to the officer a sum equal to the value of the debtor's interest in the money,the debtor's interest in the money is transferred to the third party.
- (3) Where the sheriff is satisfied—
  - (a) that money attached is owned in common by the debtor and a third party; and
  - (b) that the disposal of the money would in the circumstances be unduly harsh to the third party,the sheriff may, on the third party's application made before the money's disposal, order that the money attachment is to cease to have effect in relation to that money.
- (4) Where—
  - (a) the debtor's interest in money owned in common by the debtor and a third party is, under subsection (2) above, transferred to the third party; or

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*Status: This is the original version (as it was originally enacted).*

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- (b) the money attachment ceases, in pursuance of an order made under subsection (3) above, to have effect in relation to that money, the judicial officer may attach other money owned by the debtor and kept at the place at which the original money attachment was executed.
- (5) In this section and in section 192 of this Act, references to the “disposal” of attached money (and to cognate expressions) are to be construed as references to the value of that money being realised by virtue of—
- (a) an order under section 181 of this Act; or
  - (b) a payment order.