



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 15

#### MORATORIUM ON DILIGENCE

#### **197 Moratorium on diligence following notice under section 195(1) or 196(1)**

- (1) This section applies where a person gives notice under section 195(1) or 196(1).
- (2) A moratorium on diligence applies in relation to the person who is the subject of the notice for the moratorium period determined in accordance with section 198.
- (3) While a moratorium on diligence applies in relation to the person it is not competent—
  - (a) to serve a charge for payment in respect of any debt owed by the person, or
  - (b) to commence or execute any diligence to enforce payment of any debt owed by the person,
  - (c) to found on any debt owed by the person in presenting, or concurring in the presentation of, a petition for sequestration of the person's estate, or
  - (d) where an arrestment mentioned in subsection (1) of section 73J of the Debtors (Scotland) Act 1987 has been granted in respect of funds due to the person, to release funds to the creditor under subsection (2) of that section.
- (4) The moratorium period applying in relation to the person must be disregarded for the purpose of determining the period mentioned in subsection (3) of that section 73J.
- (5) Despite subsection (3)(b), it is competent to—
  - (a) auction an article which has been attached in accordance with the 2002 Act where—
    - (i) notice has been given to the debtor under section 27(4) of that Act, or
    - (ii) the article has been removed, or notice of removal has been given, under section 53 of that Act,
  - (b) implement a decree of furthcoming,
  - (c) implement a decree or order for sale of a ship (or of a share of a ship) or cargo, or
  - (d) execute—
    - (i) an earnings arrestment,

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**Changes to legislation:** Bankruptcy (Scotland) Act 2016, Section 197 is up to date with all changes known to be in force on or before 14 April 2024. 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) [View outstanding changes](#)

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(ii) a current maintenance arrestment, or  
(iii) a conjoined arrestment order,  
which came into effect before the day on which the moratorium period in relation to the person began.

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**Commencement Information**

**II** S. 197 in force at 30.11.2016 by S.S.I. 2016/294, [reg. 2](#)

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)