

Status: Point in time view as at 23/11/2009. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, SCHEDULE 3. (See end of Document for details)

SCHEDULE 3 **S**

(introduced by section 196(1))

EXPENSES OF MONEY ATTACHMENT

VALID FROM 31/01/2011

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 a judicial officer to take any of the steps specified in this paragraph.
- 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.

Commencement Information

- II** 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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