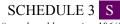
Status: Point in time view as at 23/11/2009. This version of this schedule contains provisions that are not valid for this point in time. Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, SCHEDULE 3. (See end of Document for details)



(introduced by section 196(1))

## EXPENSES OF MONEY ATTACHMENT

|   | VALID FROM 31/01/2011   |
|---|---|
|   | Expenses chargeable against the debtor  |
| 1 | <ul> <li>There is to be chargeable against the debtor any expenses incurred—</li> <li>(a) subject to section 90(7) of the 1987 Act, in serving a charge;</li> <li>(b) in executing a money attachment;</li> <li>(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</li> </ul> |
|   | <ul> <li>(a) 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;</li> <li>(e) in applying for a payment order under section 183(2) of this Act;</li> </ul>  |
|   | (f) in granting a receipt and making a report to the sheriff under section 188(4) of this Act;  |
|   | <ul> <li>(g) in giving a statement under section 189(1) of this Act;</li> <li>(h) in removing money from the place at which is was found;</li> <li>(i) in opening shut and lockfast places for that purpose;</li> <li>(j) by a solicitor in instructing a judicial officer to take any of the steps specified in this paragraph.</li> </ul>                           |
| 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

- 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.
- If—

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- (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**

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)

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

# 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.