



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 8

### ATTACHMENT OF MONEY

#### *Release of money attached*

#### **185 Release of money where attachment unduly harsh**

- (1) The debtor may, before—
  - (a) a payment order is made; or
  - (b) the money attachment ceases to have effect,apply to the sheriff for an order such as is mentioned in subsection (2) below.
- (2) That order is one—
  - (a) providing that the money attachment ceases to have effect in relation to—
    - (i) the money attached; or
    - (ii) so much of it as the sheriff specifies; and
  - (b) requiring the judicial officer to return that money or, where the value of the money has been realised, a sum equivalent to that value, to the debtor.
- (3) Where the sheriff is satisfied that, in the circumstances, the money attachment is unduly harsh to the debtor, the sheriff must, subject to subsection (4) below, make an order such as is mentioned in subsection (2) above.
- (4) Where the value of the money attached exceeds £1,000 or such other amount as the Scottish Ministers may by regulations prescribe, the sheriff—
  - (a) may not specify money the value of which exceeds that amount; and
  - (b) may, where the money attached includes or comprises a banking instrument, authorise the judicial officer to—
    - (i) realise the value of the instrument;
    - (ii) pay to the debtor from the money and, as the case may be, proceeds of that realisation the sum specified; and

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*Status: This is the original version (as it was originally enacted).*

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- (iii) deposit any surplus remaining in a bank account.
- (5) In a case to which subsection (4)(b) above applies, the order under subsection (3) above authorises the judicial officer—
- (a) to act as the irrevocable agent of the debtor in relation to the instrument; and
  - (b) to take any of the steps mentioned in section 184(3) of this Act.
- (6) Subsection (4) of section 184 of this Act applies to any steps taken by virtue of subsection (5) above.
- (7) Where the amount realised under subsection (4)(b)(i) above is less than the amount specified, the order is to be deemed to have required the judicial officer to pay the amount realised only.