



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 8

### ATTACHMENT OF MONEY

#### *Statement of money attachment*

#### **190 Audit of final statement under section 189(1)**

- (1) The sheriff must remit the statement under section 189(1) to the auditor of court who must—
  - (a) tax the chargeable expenses;
  - (b) certify any balance due by or to the debtor; and
  - (c) make a report to the sheriff.
- (2) The auditor of court must not alter the statement without first giving all interested persons an opportunity to make representations.
- (3) The auditor of court must not charge a fee in respect of the report made under subsection (1)(c) above.
- (4) On receipt of a report made under subsection (1)(c) above the sheriff must make an order—
  - (a) declaring the balance due by or to the debtor, as certified by the auditor of court;
  - (b) declaring such a balance after making modifications to the balance so certified; or
  - (c) where the sheriff is satisfied that there has been a material irregularity in the execution of the money attachment (other than the timing of the statement under section 189(1) of this Act), declaring the attachment void.
- (5) An order under subsection (4)(c) above may make such consequential provision as the sheriff thinks fit.

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*Status: This is the original version (as it was originally enacted).*

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- (6) An order under subsection (4)(c) above does not affect the title of a person to any money acquired by that person in good faith.
- (7) The sheriff may not make an order under subsection (4)(b) or (c) above without first—
- (a) giving—
    - (i) the debtor;
    - (ii) the creditor; and
    - (iii) any third party who claims ownership (whether alone or in common with the debtor or any other person) of any money attached, an opportunity to make representations; or
  - (b) holding a hearing.
- (8) The sheriff clerk must intimate the sheriff's order under subsection (4) above to the persons mentioned in subsection (7)(a) above.