



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 8 S

### ATTACHMENT OF MONEY

#### *Release of money attached*

#### 184 Effect of payment order S

- (1) A payment order authorises the [<sup>F1</sup>officer of court]—
  - (a) to realise the value of money attached; and
  - (b) subject to section 37 of the 1985 Act (effect of sequestration on diligence), to dispose of the proceeds of the money attachment by—
    - (i) retaining such amount as necessary to meet the fees and outlays of the officer;
    - (ii) paying to the creditor the remainder of those proceeds so far as necessary to meet the sum recoverable by the money attachment; and
    - (iii) paying to the debtor any surplus remaining.
- (2) For the purposes of subsection (1) above, the payment order authorises the [<sup>F2</sup>officer of court]—
  - (a) to act as the irrevocable agent of the debtor in relation to any banking instrument attached; and
  - (b) to take any of the steps mentioned in subsection (3) below.
- (3) Those steps are—
  - (a) presenting the instrument for payment;
  - (b) if instructed by the creditor to do so, raising any action for payment that would have been open to the debtor to raise against any person liable to honour the instrument;
  - (c) except where the instrument is not negotiable, negotiating the instrument—
    - (i) for value; or

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*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 184. (See end of Document for details)*

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- (ii) to the creditor for value credited against the sum recoverable by the money attachment;
  - (d) any other steps the debtor could have taken in relation to the instrument before the money attachment was executed.
- (4) The [<sup>F3</sup> officer of court] must, in taking any of the steps referred to in subsection (3) above, obtain the highest amount for the instrument as is reasonably practicable.
- (5) In subsection (1)(b) above, “proceeds of the money attachment” includes any amount—
- (a) deposited in a bank account by virtue of section 181(6) or 185(4)(b)(iii) of this Act;
  - (b) obtained as a result of taking any of the steps mentioned in subsection (3) above; and
  - (c) received by the [<sup>F4</sup> officer of court] by virtue of section 191(2)(c) of this Act.

#### Textual Amendments

- F1** Words in s. 184(1) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 24\(2\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F2** Words in s. 184(2) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 24\(2\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F3** Words in s. 184(4) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 24\(2\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F4** Words in s. 184(5)(c) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 24\(2\)](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

**Changes to legislation:**

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 184.