



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 8

ATTACHMENT OF MONEY

Release of money attached

186 Invalidation and cessation of money attachment

- (1) Where, at any time before a payment order is made or the money attachment ceases to have effect, the sheriff is satisfied that there has been a material irregularity in the execution of the money attachment, the sheriff must make an order such as is mentioned in subsection (2) below.
- (2) That order is an order—
 - (a) declaring that the money attachment ceases to have effect; and
 - (b) requiring the judicial officer to return the money attached or, where the value of any such money has been realised, a sum equivalent to that value, to the debtor or, as the case may be, the person whose money it is.
- (3) Where, at any time before a payment order is made or the money attachment ceases to have effect, the sheriff is satisfied that any money attached is not owned by the debtor—
 - (a) the sheriff must make an order such as is mentioned in subsection (2) above restricted to that money; and
 - (b) after the order is made, the judicial officer may attach other money owned by the debtor and kept at the place at which the original money attachment was executed.
- (4) An order under this section may be made—
 - (a) on the application of—
 - (i) the debtor; or
 - (ii) a third party claiming an interest; or

Status: This is the original version (as it was originally enacted).

- (b) on the sheriff's own initiative.
- (5) Where such an order is made on the sheriff's own initiative, the sheriff clerk must intimate the order to—
- (a) the debtor;
 - (b) the creditor;
 - (c) the judicial officer; and
 - (d) any other person the sheriff thinks has an interest.
- (6) The sheriff may not make an order under this section without first—
- (a) giving—
 - (i) the debtor;
 - (ii) the creditor; and
 - (iii) any other person the sheriff thinks has an interest, an opportunity to make representations; or
 - (b) holding a hearing.
- (7) The sheriff must give reasons for making, or refusing to make, an order under this section.