

**2009 No. 369 (C. 28)**

**DEBT**

**DILIGENCE**

**The Bankruptcy and Diligence etc. (Scotland) Act 2007  
(Commencement No. 5 and Transitional) Order 2009**

*Made* - - - -

*27th October 2009*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 224(2) and 227(3) and (4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007(a).

**Citation**

1. This Order may be cited as the Bankruptcy and Diligence etc. (Scotland) Act 2007 (Commencement No. 5 and Transitional) Order 2009.

**Interpretation**

2. In this Order, “the Act” means the Bankruptcy and Diligence etc. (Scotland) Act 2007.

**Appointed day – money attachment**

3.—(1) The following provisions of the Act, in so far as not already in force, come into force on 23rd November 2009:—

- (a) Part 8 and schedule 3 (money attachment); and
- (b) section 226(1) in so far as relating to the provisions of schedule 5 (minor and consequential amendments) commenced by this Order.

(2) The minor and consequential amendments in schedule 5 specified in column 1 of the Schedule to this Order, in so far as not already in force, come into force on 23rd November 2009, subject to paragraph (3).

(3) Where in the Schedule to this Order a purpose is specified in column 2 in relation to an amendment, it comes into force only for that purpose, but where no purpose is specified it comes into force for all purposes (in so far as not already in force).

**Transitional modification of the Act – references to “judicial officer”**

4.—(1) Any reference to a “judicial officer” in, or having effect by virtue of, any provision of the Act commenced by this Order is to be read as a reference to a messenger-at-arms or a sheriff officer (or a reference to a messenger-at-arms and a sheriff officer as the case may be).

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(a) 2007 asp 3.

(2) This article ceases to have effect on the day to be appointed for the coming into force of section 60 of the Act (abolition of offices of messenger-at-arms and sheriff officer).

*FERGUS EWING*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
27th October 2009

## SCHEDULE 1

Article 3(2) and (3)

### Provisions of schedule 5 (minor and consequential amendments) coming into force on 23rd November 2009

<i>Column 1 – provisions</i>	<i>Column 2 – purpose</i>
<b>1.</b> Paragraph 1 (the Companies Clauses Consolidation (Scotland) Act 1845 <b>(a)</b> )	
<b>2.</b> Paragraph 2 (the Harbours, Docks and Piers Clauses Act 1847 <b>(b)</b> )	
<b>3.</b> Paragraph 4 (the Writs Execution (Scotland) Act 1877 <b>(c)</b> )	For the purposes of inserting references to money attachment
<b>4.</b> In paragraph 6 (the Sheriff Courts (Scotland) Extracts Act 1892 <b>(d)</b> )—	
(a) sub-paragraph (1)	For the purposes of the provisions commenced in this Order
(b) sub-paragraph (2)	For the purposes of inserting references to money attachment
<b>5.</b> Paragraph 8 (the Local Government (Scotland) Act 1947 <b>(e)</b> )	
<b>6.</b> Paragraph 9 (the Taxes Management Act 1970 <b>(f)</b> )	
<b>7.</b> Paragraph 10 (the Sheriff Courts (Scotland) Act 1971 <b>(g)</b> )	For the purpose of substituting “, a money attachment”
<b>8.</b> In paragraph 13 (the Bankruptcy (Scotland) Act 1985 <b>(h)</b> )—	
(a) sub-paragraph (1)	For the purposes of the provisions commenced in this Order
(b) sub-paragraph (3)(c)(i) and (d)(i), (iii) and (iv)	For the purposes of inserting “, money attachment”
<b>9.</b> Paragraph 15 (the Legal Aid (Scotland) Act 1986 <b>(i)</b> )	
<b>10.</b> In paragraph 16 (the Debtors (Scotland) Act 1987 <b>(j)</b> )—	
(a) sub-paragraph (1)	For the purposes of the provisions commenced in this Order
(b) sub-paragraph (2)(a)	For the purposes of inserting “(v) a money attachment”
(c) sub-paragraph (4)	For the purposes of the substitution of section 5(5)(aa) of the 1987 Act
(d) sub-paragraph (7)(a)(iii)	

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- (a) 1845 c.17.
  - (b) 1847 c.27.
  - (c) 1877 c.40.
  - (d) 1892 c.17.
  - (e) 1947 c.43.
  - (f) 1970 c.9.
  - (g) 1971 c.58.
  - (h) 1985 c.66.
  - (i) 1986 c.47.
  - (j) 1987 c.18.

<i>Column 1 – provisions</i>	<i>Column 2 – purpose</i>
(e) sub-paragraph (8)(a)	For the purposes of inserting “(v) a money attachment”
(f) sub-paragraph (11)(a) and (b)	For the purposes of inserting “, a money attachment”
<b>11.</b> Paragraph 17 (the Abolition of Domestic Rates (Scotland) Act 1987 <b>(a)</b> )	
<b>12.</b> Paragraph 19 (the Social Security Administration Act 1992 <b>(b)</b> )	
<b>13.</b> Paragraph 20 (the Local Government Finance Act 1992 <b>(c)</b> )	
<b>14.</b> Paragraph 23 (the Criminal Procedure (Scotland) Act 1995 <b>(d)</b> )	
<b>15.</b> Paragraph 24 (the Finance Act 1997 <b>(e)</b> )	
<b>16.</b> In paragraph 26 (the Water Industry (Scotland) Act 2002 <b>(f)</b> )—	
(a) sub-paragraph (1)	For the purposes of the provisions commenced in this Order
(b) sub-paragraph (2)	
(c) sub-paragraph (3)	For the purposes of the insertion of the reference to section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (expenses of money attachment)
<b>17.</b> In paragraph 30 (the Debt Arrangement and Attachment (Scotland) Act 2002 <b>(g)</b> )—	
(a) sub-paragraph (1)	For the purposes of the provisions commenced in this Order
(b) sub-paragraph (3)	
<b>18.</b> Paragraph 32 (the Finance Act 2003 <b>(h)</b> )	

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- (a) 1987 c.47.  
(b) 1992 c.5.  
(c) 1992 c.14.  
(d) 1995 c.46.  
(e) 1997 c.16.  
(f) 2002 asp 3.  
(g) 2002 asp 17.  
(h) 2003 c.14.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Article 3 of this Order brings into force provisions of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“the Act”), subject to transitional arrangements.

Part 8 and schedule 3 (money attachment) are brought into force on 23rd November 2009, together with related consequential amendments.

Article 4 sets out transitional arrangements for references to “judicial officer” in provisions commenced by this Order to be read as references to messengers-at-arms or sheriff officers prior to the coming into force of section 60 of the Act (abolition of those offices).

The Act received Royal Assent on 15th January 2007. Sections 224, 225 and 227 of the Act came into force on Royal Assent and section 222 came into force on the day after Royal Assent.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
s.211	8th March 2007	2007/82
s.212(1), (2) to (6) (partially)		
s.221		
s.223		
s.36 (partially)	31st March 2007	2007/82
s.212(1), (8) to (16) (partially)		
s.226(1) (partially)		
sch. 1, para. 42(a)		
sch. 5, para. 30(1), (5) to (8)(a), (10), (11)(a)(ii) and (b) and (15) (partially)		
s.20	19th February 2007	2008/45
s.35		
ss.1 to 17	1st April 2008	2008/115
s.18(1) to (4)		
ss.19 and 20		
ss.22 to 24		
s.25(a)		
s.25(b) (partially)		
s.36 (partially)		
s.169 (partially)		
ss.170 and 171		
s.173		
ss.199 to 205		
s.206 (partially)		
s.208		
ss.209 and 210		
sch.1, paras. 1 to 40		
sch.1, para. 41(b)		
sch.1, paras. 42 and 43		
sch.1, para. 44(partially)		
sch.1, paras. 45 to 62		
sch.5, para. 10 (partially)		
sch.5, para. 12		
sch.5, para. 13 (partially)		

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
sch.5, para. 16 (partially)		
sch.5, para. 26 (partially)		
sch.5, para. 30 (partially)		
sch.6, Part 1 (partially)		
sch.6, Part 2		
ss.21(3), (4) and (7), 25(a), 37(7) and (8), 50(4) and (5), 58(5)(c), 61(1), (2) and (3), 63(1) and (2), 75(7), 81(7), 83(1)(a) and (3)(b), 88(3)(a), 91(2), (3)(b), (4)(a), (4)(c)(vi), (5)(f) and (7), 96(5), 97(7), 98(6), 106(2) and (4), 108(2) and (8), 111(2)(b), 113(2)(a), 114(4), 117(2), (7)(b) and (8)(a), 120(5), 123(2)(a) and (5), 124(2), 128(3), 129, 130(2)(a), 133(2)(a), 135(2)(a) and (d)(ii), 140(2)(a) and (5), 143(5), 145(2), 146(9), 148(3), 149, 162, 164(1) and (2), 175(3), 176(1)(c), 179(2)(a)(i), 182(2)(a), 183(3)(a) and (7)(a), 185(4), 188(4)(a), 189(3)(a), 196(2), 198(2), 206, 214(4), 215, 216(6), 217(1)(c), 220, sch.2, para. 22, sch. 3, para. 4, sch. 5, para. 13(3)(f) and (g), sch.5, para. 30(4) (for the purposes of making regulations or orders)		
ss.146 to 164	22nd April 2009	2009/98
s.165(1), (3) and (4)		
s.166 to 168		
s.169 (partially)		
s.206 (partially)		
sch.5, para. 5		
sch.5, para. 7 (partially)		
sch.5, para. 13 (partially)		
sch.5, para. 16 (partially)		
sch.5, para. 18 (partially)		
sch.5, para. 22 (partially)		
sch.5, para. 29 (partially)		
sch.5, para. 30 (partially)		
sch.6, Part 1 (partially)		

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