

These notes relate to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) which received Royal Assent on 15 January 2007

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

Part 10 – Arrestment in Execution and Action of Furthcoming

Section 206 – Arrestment in execution

New section 73L – Circumstances preventing automatic release

703. Section 73L(1) sets out the circumstances which prevent an arrestee automatically releasing funds under section 73J. The circumstances are—

- that the arrestee or debtor or any other person to whom funds are due solely or in common with the debtor applies, by notice of objection under section 73M, to the sheriff;
- the debtor makes a hardship application for release of funds or property under section 73Q(2);
- an action of multiplepounding is raised (which is an action where there are competing claims as to ownership of attached property held by an arrestee, for example more than one creditor of the debtor attempts to arrest the funds); or
- the arrestment is recalled or restricted or otherwise ceases to have effect. An arrestment may be recalled where, for example, the debt in relation to which it has been effected is paid. Recall or restriction can also occur by order of the sheriff where a time to pay order is applied for under Part I of the 1987 Act.