



# Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

## [<sup>F1</sup>PART 1A

### INTERIM ATTACHMENT

#### *Application for interim attachment*

#### [<sup>F1</sup>9E **Hearing on application**

- (1) At the hearing on an application for warrant for interim attachment, the court shall not make any order without first giving—
  - (a) any person to whom intimation of the date of the hearing was made; and
  - (b) any other person appearing to the court to have an interest, an opportunity to be heard.
- (2) The court may, if satisfied as to the matters mentioned in subsection (3) below, make an order granting warrant for interim attachment.
- (3) The matters referred to in subsection (2) above are—
  - (a) that the creditor has a prima facie case on the merits of the action;
  - (b) that there is a real and substantial risk enforcement of any decree in the action in favour of the creditor would be defeated or prejudiced by reason of—
    - (i) the debtor being insolvent or verging on insolvency; or
    - (ii) the likelihood of the debtor removing, disposing of, burdening, concealing or otherwise dealing with all or some of the debtor's assets, were warrant for interim attachment not granted; and
  - (c) that it is reasonable in all the circumstances, including the effect granting warrant may have on any person having an interest, to do so.
- (4) The onus shall be on the creditor to satisfy the court that the order granting warrant should be made.

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**Changes to legislation:** There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 9E. (See end of Document for details)

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- (5) Where the court makes an order granting or, as the case may be, refusing warrant for interim attachment, the court shall order the creditor to intimate that order to—
- (a) the debtor; and
  - (b) any other person appearing to the court to have an interest.
- (6) Where the court makes an order refusing warrant for interim attachment, the court may impose such conditions (if any) as it thinks fit.
- (7) Without prejudice to the generality of subsection (6) above, those conditions may require the debtor—
- (a) to consign into court such sum; or
  - (b) to find caution or to give such other security,
- as the court thinks fit.]

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#### Textual Amendments

- F1** Pt. 1A inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 173, 227(3) (with s. 223); [S.S.I. 2008/115](#), art. 3(1)(c) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by [S.S.I. 2009/67](#), art. 7; (31.1.2011) by [S.S.I. 2011/31](#), art. 5(a); and (4.10.2014) by [S.S.I. 2014/173](#), arts. 1(2), 3)

**Changes to legislation:**

There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 9E.