

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 73C – Arrestment on the dependence followed by decree

676. Where a creditor obtains a final decree in the creditor's favour at the conclusion of a court case and the creditor had arrested property of the debtor on the dependence of the action then, under common law, the arrestment on the dependence automatically becomes an arrestment in execution of the final decree. In these circumstances, section 73C provides that the creditor will be required to serve a copy of the final decree, in the form prescribed in rules of court, on the arrestee. This gives the arrestee notice that the arrestment on the dependence has become an arrestment in execution and may be followed by an action of furthcoming, a voluntary mandate to release the assets held or by the automatic release of funds under new section 73J (see paragraphs 696 to 699 below).