

*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**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 4 – Land Attachment and Residual Attachment**

#### *Chapter 3 – Residual attachment*

#### **Residual attachment order**

#### *Section 132 – Residual attachment order*

384. This section provides for the making and effects of a residual attachment order.
385. Subsection (1) provides that at the hearing on the application for a residual attachment, the court must allow any person who has lodged an objection a chance to be heard.
386. Subsection (2) provides that the court may, if satisfied that the application is in order, make a residual attachment order which (in terms of subsection (3)) must specify the property to be attached. The order must be intimated by the creditor to the debtor and any other person the court specifies. The order must also specify the persons on whom the schedule of residual attachment (see section 133) must be served. When making a residual attachment order, the court may make any other order the court considers appropriate. Subsection (5) makes further provision about the kinds of ancillary orders the court may make.
387. Under subsection (4), the court must refuse the application if either the property specified in it cannot be attached by residual attachment or the creditor's proposals for realising the value of the property would be ineffective (either in realising any value or, where the value was realised, in realising a sum which would be too small to result in the debt being paid off or reduced).