



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 4

### LAND ATTACHMENT AND RESIDUAL ATTACHMENT

#### CHAPTER 2

##### ATTACHMENT OF LAND

*Land attachment subsequent to reduction of deed granted in breach of inhibition*

**125 Land attachment subsequent to reduction of deed granted in breach of inhibition**

- (1) Notwithstanding section 82(2)(a)(ii) of this Act, where—
- (a) a debtor has granted a deed to a person (in this section, a “third party”) in breach of an inhibition; and
  - (b) the deed has been reduced by the inhibiting creditor on the ground that it breached the inhibition,
- it is competent for the inhibiting creditor to register a notice of land attachment in relation to land to which the reduced deed relates.
- (2) A land attachment created following registration of a notice of land attachment in the circumstances mentioned in subsection (1) above enjoys preference in ranking in any competition with—
- (a) a security granted over any land described in the notice in favour of; and
  - (b) a land attachment over any such land executed by, a creditor of the third party.
- (3) Where a notice of land attachment is registered in the circumstances mentioned in subsection (1) above, this Chapter applies with the following modifications (and in

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*Status: This is the original version (as it was originally enacted).*

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those modifications “third party” means a third party within the meaning given by subsection (1) above).

- (4) The references mentioned in subsection (5) below to the “debtor” are to be read as references to the debtor and the third party.
- (5) Those references are the references in sections 83(5)(a), 92(4)(c)(iv) and (5)(a), 103(1)(a), 104(3)(c), 106(1)(a), 108(5) and 117(4)(a).
- (6) The references mentioned in subsection (7) below to the “debtor” are to read as references to the debtor or the third party.
- (7) Those references are—
  - (a) the references in sections 86(1)(b), 91(1)(a), 95(2), 98(1)(b), (2), (3), (8) and (9)(b)(ii), 99(3)(b), 100(1)(b), 106(1) (except the reference in paragraph (a)), 107(1) and (4)(b) and (c), 113(2)(b)(vi), 116(3) and (5), 117(4) and (6) and 120(5); and
  - (b) the first reference in section 101(3)(a).
- (8) In section 114(2)(b), after “to” insert “the debtor or third party”.
- (9) In section 116(1), after paragraph (d) insert—
  - “(da) any balance due to the third party;”.