



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 4

### LAND ATTACHMENT AND RESIDUAL ATTACHMENT

#### CHAPTER 2

##### ATTACHMENT OF LAND

###### *General and miscellaneous*

#### **126 Land attachment as heritable security**

For the avoidance of doubt, a land attachment is not a heritable security for the purposes of the Heritable Securities (Scotland) Act 1894 (c. 44).

#### **127 Statement on impact of land attachment**

- (1) The Scottish Ministers must, within 15 months of the commencement of this Chapter, prepare, publish and lay before the Scottish Parliament a statement setting out the impact of land attachment on debt recovery and homelessness.
- (2) The statement must specify—
  - (a) the number of land attachments registered;
  - (b) the number of warrants for sale—
    - (i) granted;
    - (ii) refused; or
    - (iii) suspended,under section 97;
  - (c) the number of persons made homeless as a consequence of this Chapter;
  - (d) the mean and median sums recovered by land attachment; and

- (e) the effect which land attachment appears to have had on debtors' abilities to meet ongoing financial obligations and repay other debts.
- (3) In this section, “homeless” has the meaning given in section 24 of the Housing (Scotland) Act 1987 (c. 26).

## 128 Interpretation

- (1) In this Chapter, unless the context otherwise requires—
- “appointed person” has the meaning given by section 97(2)(b) of this Act;
  - “appropriate property register” has the meaning given by section 83(1)(c)(i) of this Act;
  - “attached land” has the meaning given by section 81(5)(a) of this Act;
  - “decree” has the meaning given in section 221 of this Act (except that paragraphs (c), (g) and (h) of the definition of “decree” in that section do not apply) being a decree which, or an extract of which, authorises land attachment;
  - “document of debt” has the meaning given in section 221 of this Act, being a document which, or an extract of which, authorises land attachment;
  - “judicial officer” means the judicial officer appointed by the creditor;
  - “land” has the meaning given by section 82(1) of this Act;
  - “long lease” has the same meaning as in section 28(1) of the Land Registration (Scotland) Act 1979 (c. 33);
  - “notice of land attachment” has the meaning given by section 83(1) of this Act;
  - “prescribed sum” has the meaning given by section 92(1)(c) of this Act;
  - “property register” means the Land Register of Scotland or, as the case may be, the General Register of Sasines;
  - “registering”, in relation to any document, means, unless the context otherwise requires, registering an interest in land or information relating to an interest in land (being an interest or information for which that document provides) in the Land Register of Scotland or, as the case may be, recording the document in the Register of Sasines (cognate expressions being construed accordingly);
  - “sum recoverable by the land attachment” has the meaning given by section 81(5)(b) of this Act; and
  - “warrant for sale” means a warrant granted under section 97(2) of this Act.
- (2) In this Chapter—
- (a) any reference to a purchase, sale, conveyance or disposition is, in a case where the attached land is a lease, to be construed as a reference to an assignation; and
  - (b) any reference to the ownership of land in such a case is to be construed as a reference to the right of lease,
- and cognate expressions are to be construed accordingly.
- (3) The Scottish Ministers may by order modify the definitions of “decree” and “document of debt” in subsection (1) above by—
- (a) adding types of decree or document to;
  - (b) removing types of decree or document from; or
  - (c) varying the description of,
- the types of decree or document to which those definitions apply.