



# Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

## DEBT ARRANGEMENT AND ATTACHMENT (SCOTLAND) ACT 2002

### PART 1

#### THE DEBT ARRANGEMENT SCHEME

- 1 Debt arrangement scheme
- 2 Debt payment programmes
- 3 Money advice
- 4 Effect of debt payment programmes
- 5 Variation of debt payment programmes
- 6 Deduction from earnings
- 7 Debt payment programmes: power to make further provision
- 7A Debt payment programmes: power to make provision about debt relief
- 8 Functions of the Scottish Ministers
- 9 Interpretation of Part

### PART 1A

#### INTERIM ATTACHMENT

##### *Interim attachment*

- 9A Interim attachment
- 9B Articles exempt from interim attachment

##### *Application for interim attachment*

- 9C Application for warrant for interim attachment
- 9D Grant of warrant without a hearing
- 9E Hearing on application

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### *Execution of interim attachment*

- 9F Execution of interim attachment
- 9G Execution of interim attachment before service

### *Interim attachment: further procedure*

- 9H Order for security of attached articles

### *Interim attachment: effects*

- 9J Unlawful acts after interim attachment
- 9K Articles belonging to or owned in common by a third party
- 9L Duration of interim attachment

### *Recall etc. of interim attachment*

- 9M Recall or restriction of interim attachment
- 9N Variation of orders and variation or recall of conditions

### *General and miscellaneous provisions*

- 9P Expenses of interim attachment
- 9Q Recovery of expenses of interim attachment
- 9R Ascription of sums recovered while interim attachment is in effect
- 9S Ranking of interim attachment

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#### *Attachment*

- 10 Attachment
- 11 Articles exempt from attachment
- 12 Times when attachment is not competent
- 13 Presumption of ownership
- 13A Schedule of attachment

#### *Attachment of articles kept outwith dwellinghouses etc.*

- 14 Procedure for attachment of articles kept outwith dwellinghouses etc.
- 15 Valuation
- 16 Attachment of mobile homes
- 17 Report of attachment
- 18 Redemption
- 19 Removal and auction of attached articles
- 19A Urgent removal of attached articles

#### *Attachment: further procedure*

- 20 Order for security of articles or sale of articles which are perishable etc.
- 21 Unlawful acts after attachment
- 22 Release of vehicle from attachment
- 23 Appeals against valuation
- 24 Duration of attachment
- 25 Second attachment at same place
- 26 Invalidity and cessation of attachment

### *Auction of attached articles*

- 27 Notice of public auction
- 28 Alteration of arrangements for removal or auction
- 29 Cancellation of auctions
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- 31 Disposal of proceeds of auction
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- 34 Articles belonging to a third party
- 35 Articles in common ownership
- 36 Procedure where articles in common ownership are sold at auction
- 37 Attachment terminated by payment or tender of full amount owing
- 38 Assistance to debtor
- 39 Expenses chargeable in relation to attachment etc.
- 40 Recovery from debtor of expenses of attachment
- 41 Ascription of sums recovered by attachment or while attachment is in effect
- 42 Restriction on fees payable by debtor
- 43 Power to provide for lay representation
- 44 Legal aid
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### **ATTACHMENT OF ARTICLES KEPT IN DWELLINGHOUSES: SPECIAL PROCEDURE**

- 46 Restriction on attachment of articles kept in dwellinghouses
- 47 Exceptional attachment order
- 48 Exceptional circumstances
- 49 Power of entry
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- 58 Abolition of poindings and warrant sales
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- 60 Application of this Act to sequestration for rent and arrestment
- 60A Electronic signatures
- 61 Minor and consequential amendments and repeals

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- 62 Regulations and orders
- 63 Crown application
- 64 Short title and commencement

#### SCHEDULE 1 — Expenses of attachment etc.

- 1 *Expenses chargeable against the debtor*
- 1A The expenses referred to in sub-paragraphs (i), (j) and (k)...
- 2 Where a new date is arranged under section 28(2) above...
- 3 Where arrangements for an auction are cancelled under subsection (1)...
- 4 *Circumstances where liability for expenses is at the discretion of the sheriff*
- 5 *Calculation of amount chargeable against debtor under the foregoing provisions*
- 6 *Circumstances where no expenses are due to or by either party*
- 7 If— (a) an application mentioned in paragraph 6(a) above is...
- 8 Paragraphs 6 and 7 do not apply to expenses incurred—...

#### SCHEDULE 2 — Non-essential assets

- 1 For the purposes of Part 3 of this Act, “non-essential...
- 2 None of the following is a non-essential asset for the...
- 3 The articles referred to in paragraph 2(a) above are—
- 4 The articles referred to in paragraph 2(b) above are the...
- 5 The Scottish Ministers may by regulations modify paragraph 4 above...

#### SCHEDULE 3 — Minor and consequential amendments and repeals

##### Part 1 — ACTS

- 1 *Companies Clauses Consolidation (Scotland) Act 1845 (c.17)*
- 2 *Lands Clauses Consolidation (Scotland) Act 1845 (c.19)*
- 3 *Railway Clauses Consolidation (Scotland) Act 1845 (c.33)*
- 4 *Markets and Fairs Clauses Act 1847 (c.14)*
- 5 *Harbours, Docks and Piers Clauses Act 1847 (c.27)*
- 6 *Entail Amendment Act 1853 (c.94)*
- 7 *Writs Execution (Scotland) Act 1877 (c.40)*
- 8 *Sheriff Courts (Scotland) Extracts Act 1892 (c.17)*
- 9 *Public Health (Scotland) Act 1897 (c.38)*
- 10 *Local Government (Scotland) Act 1947 (c.43)*
- 11 *Taxes Management Act 1970 (c.9)*
- 12 *Water (Scotland) Act 1980 (c.45)*
- 13 *Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c.59)*
- 14 *Car Tax Act 1983 (c.53)*
- 15 *Bankruptcy (Scotland) Act 1985 (c.66)*
- 16 *Gas Act 1986 (c.44)*
- 17 *Debtors (Scotland) Act 1987 (c.18)*
- 18 *Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47)*
- 19 *Income and Corporation Taxes Act 1988 (c.1)*
- 20 *Child Support Act 1991 (c.48)*
- 21 *Social Security Administration Act 1992 (c.5)*
- 22 *Local Government Finance Act 1992 (c.14)*
- 23 *Local Government etc. (Scotland) Act 1994 (c.39);*
- 24 *Proceeds of Crime (Scotland) Act 1995 (c.43)*
- 25 *Criminal Procedure (Scotland) Act 1995 (c.46)*

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- 26 *Finance Act 1997 (c.16)*
- 27 *Abolition of Poindings and Warrant Sales Act 2001 (asp 1)*
- 28 *Water Industry (Scotland) Act 2002 (asp 3)*
- 29 *Proceeds of Crime Act 2002 (c.29)*
  - Part 2 — SUBORDINATE LEGISLATION
- 30 *Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711)*
- 31 *Confiscation of the Proceeds of Drug Trafficking (Designated Countries and Territories) (Scotland) Order 1991 (S.I. 1991/1467)*
- 32 *Merchant Shipping (Ministry of Defence Commercially Managed Ships) Order 1992 (S.I. 1992/1293)*
- 33 *Merchant Shipping (Ministry of Defence Yachts) Order 1992 (S.I. 1992/1294)*
- 34 *Insurance Premium Tax Regulations 1994 (S.I. 1994/1774)*
- 35 *Lloyd's Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3225)*
- 36 *Landfill Tax Regulations 1996 (S.I. 1996/1527)*
- 37 *Stamp Duty (Collection and Recovery of Penalties) Regulations 1999 (S.I. 1999/2537)*
- 38 *Civil Legal Aid (Scotland) Regulations 2002 (S.S.I. 2002/494)*

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**Changes and effects yet to be applied to :**

- s. 10(5) words substituted by [2007 asp 3 s. 212\(7\)](#) (This amendment not applied to legislation.gov.uk. S. 212(7) repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- s. 10(5) words substituted by [2008 c. 6 Sch. 7 para. 5](#)
- s. 15(1) repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 32(4) words substituted by [2007 asp 3 Sch. 5 para. 30\(8\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 30(8)(b)(13) repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- s. 45 words substituted by [2007 asp 3 Sch. 5 para. 30\(13\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 30(8)(b)(13) repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- Sch. 1 para. 4(a) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

**Commencement Orders yet to be applied to the Debt Arrangement and Attachment (Scotland) Act 2002**

Commencement Orders bringing provisions within this Act into force:

- [S.S.I. 2004/401 art. 3](#) commences ([2002 asp 17](#))