Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

[F1 PART 1A S

INTERIM ATTACHMENT

[F1 *Interim attachment*

Textual Amendments

F1 Pt. 1A inserted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 173**, 227(3) (with s. 223); S.S.I. 2008/115, art. 3(1)(c) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)

9A Interim attachment S

(1) Subject to sections 9B to 9E below, the court may grant warrant for diligence by attachment of corporeal moveable property owned (whether alone or in common) by the debtor on the dependence of an action (such attachment is to be known as interim attachment).

(2) Warrant for interim attachment is competent only where an action contains a conclusion for payment of a sum other than by way of expenses.

(3) This Part of this Act shall apply to petitions in the Court of Session and to parties to them as it applies to actions and to parties to them.

(4) In this Part of this Act—

" action " includes, in the sheriff court—

(a) a summary cause;

(b) **[**F2 a simple procedure case (within the meaning of section 72(9) of the Courts Reform (Scotland) Act 2014); and**]**

(c) a summary application,

Changes to legislation: *There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Cross Heading: Interim attachment. (See end of Document for details)*

and references to "summons", "conclusion" and to cognate expressions shall be construed accordingly;

" court " means—

(a) the court before which the action is in dependence; or

(b) where, by virtue of section 9L(1)(a) below, the interim attachment has effect after the creditor obtains a final interlocutor for payment, the court which granted that interlocutor;

" creditor " means the party who concludes for payment and who seeks, obtains or executes warrant for interim attachment;

" debtor " means the party against whom the conclusion for payment is addressed; and

expressions used in this Part of this Act have, unless the context otherwise requires, the same meanings as those expressions have in Part 2 of this Act.

Textual Amendments

F2 Words in s. 9A(4) substituted (28.11.2016) by The Courts Reform (Scotland) Act 2014 (Relevant Officer and Consequential Provisions) Order 2016 (S.S.I. 2016/387), art. 1, **sch. 1 para. 3(2)** (with art. 4(1))

9B Articles exempt from interim attachment S

It is not competent to attach by interim attachment—

(a) any article within a dwellinghouse;

(b) any article which, by virtue of section 11 below, it is not competent to attach;

(c) a mobile home which is the only or principal residence of a person other than the debtor;

(d) any article of a perishable nature or which is likely to deteriorate substantially and rapidly in condition or value; or

(e) where the debtor is engaged in trade, any article acquired by the debtor—

(i) to be sold by the debtor (whether or not after adaptation); or

(ii) as a material for a process of manufacturing for sale by the debtor,

in the ordinary course of that trade.**]**

Changes to legislation:
There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Cross Heading: Interim attachment.