



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

PART 2

ATTACHMENT

Attachment: further procedure

26 Invalidity and cessation of attachment

- (1) Where, at any time before the auction of an article which has been or purports to have been attached, the sheriff is satisfied that—
 - (a) the attachment has ceased to have effect; or, as the case may be
 - (b) the purported attachment is invalid (by reason of the attachment being incompetent or otherwise),the sheriff shall make an order declaring that to be the case and may make such consequential order as appears to the sheriff to be necessary in the circumstances.
- (2) An order under subsection (1) above may be made on an application by the debtor or on the sheriff's own initiative.
- (3) Where such an order is made on the sheriff's own initiative, the sheriff clerk shall intimate the order to the debtor.
- (4) The sheriff shall not make an order under subsection (1) above without first giving the debtor and the creditor—
 - (a) an opportunity to make representations; and
 - (b) if either party wishes to be heard, an opportunity to be heard.
- (5) Where—
 - (a) an order is made under subsection (1) above; and
 - (b) [^{F1}an officer] has removed the article from the place at which it was, or purported to be, attached,the officer shall return the article to the place from which it was removed.

Changes to legislation: There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 26. (See end of Document for details)

(6) The sheriff shall give reasons for a refusal to grant an order under subsection (1) above.

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Textual Amendments

F1 Words in s. 26(5)(b) substituted (31.3.2007) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), [ss. 212\(12\), 227\(3\)](#) (with [s. 223](#)); [S.S.I. 2007/82](#), art. 4(b)

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