



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

PART 3

ATTACHMENT OF ARTICLES KEPT IN DWELLINGHOUSES: SPECIAL PROCEDURE

50 Unlawful acts before attachment

- (1) It shall be regarded as a breach of an exceptional attachment order—
 - (a) for the debtor or any other person who knows that the order has been made to, without the consent of the sheriff, move any article which forms part of the debtor's non-essential assets from the dwellinghouse in which it is kept; or
 - (b) for the debtor, without the consent of the sheriff, to sell, make a gift of or otherwise relinquish ownership of any such article,before an attachment is executed in pursuance of the order.
- (2) Any person who—
 - (a) knows that an exceptional attachment order has been made; and
 - (b) before an attachment is executed in pursuance of the order, wilfully damages or destroys any article which forms part of the debtor's non-essential assets,shall be regarded as acting in breach of the order.
- (3) Where, at any time after an exceptional attachment order has been made, an article which forms part of the debtor's non-essential assets is stolen, the debtor shall give notice to the creditor, the officer and the sheriff who granted the order of that fact and of any related claim which the debtor makes, or intends to make, under a contract of insurance.
- (4) Any failure by the debtor to give notice as required by subsection (3) above is to be regarded as acting in breach of the order.
- (5) Where a debtor or any third party who knows that an exceptional attachment order has been made and that an article forms part of the debtor's non-essential assets—
 - (a) moves it from the dwellinghouse in which it is kept before an attachment is executed in pursuance of the order, and it is—

Status: This is the original version (as it was originally enacted).

- (i) damaged, destroyed, lost or stolen; or
 - (ii) acquired from or through the debtor or, as the case may be, the third party by another person without knowledge of order and for value; or
 - (b) wilfully damages or destroys it,
- the sheriff may order the debtor or, as the case may be, the third party to consign the sum set out in subsection (6) below in court.
- (6) That sum shall be—
 - (a) where the article has been damaged but not so damaged as to make it worthless, a sum equal to the difference between the value of the article before it was damaged and the value of the article so damaged; or
 - (b) where the damaged article is worthless, a sum equal to the value of the article before it was so damaged.
 - (7) Any reference in subsection (6) above to the value of an article is a reference to the officer's best estimate of the amount which the article is or, as the case may be, was likely to realise on sale by auction.
 - (8) Any sum consigned in court in pursuance of an order made under subsection (5) above shall, where that order ceases to have effect before an auction is held in execution of the order, be paid to the creditor to the extent necessary to meet the sum recoverable, any surplus thereof being paid to the debtor.