



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

[^{F1}PART 1A

INTERIM ATTACHMENT

Application for interim attachment

[^{F1}9D Grant of warrant without a hearing

- (1) The court may, if satisfied as to the matters mentioned in subsection (2) below, make an order granting warrant for interim attachment without a hearing on the application under section 9E below.
- (2) The matters referred to in subsection (1) above are—
 - (a) that the creditor has a prima facie case on the merits of the action;
 - (b) that there is a real and substantial risk enforcement of any decree in the action in favour of the creditor would be defeated or prejudiced by reason of—
 - (i) the debtor being insolvent or verging on insolvency; or
 - (ii) the likelihood of the debtor removing, disposing of, burdening, concealing or otherwise dealing with all or some of the debtor's assets, were warrant for interim attachment not granted in advance of such a hearing; and
 - (c) that it is reasonable in all the circumstances, including the effect granting warrant may have on any person having an interest, to do so.
- (3) The onus shall be on the creditor to satisfy the court that the order granting warrant should be made.
- (4) Where the court makes an order granting warrant for interim attachment without a hearing on the application under section 9E below, the court shall—
 - (a) fix a date for a hearing under section 9M below; and
 - (b) order the creditor to intimate that date to—
 - (i) the debtor; and

Changes to legislation: There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 9D. (See end of Document for details)

- (ii) any other person appearing to the court to have an interest.
- (5) Where a hearing is fixed under subsection (4)(a) above, section 9M (except subsection (11)) below shall apply as if an application had been made to the court for an order under that section.
- (6) Where the court refuses to make an order granting warrant without a hearing under section 9E below and the creditor insists in the application, the court shall—
- (a) fix a date for such a hearing on the application; and
 - (b) order the creditor to intimate that date to—
 - (i) the debtor; and
 - (ii) any other person appearing to the court to have an interest.]

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](#))

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