

These notes relate to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) which received Royal Assent on 15 January 2007

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

Part 10 – Arrestment in Execution and Action of Furthcoming

Section 206 – Arrestment in execution

New section 73A – Arrestment and action of furthcoming to proceed only on decree or document of debt

673. Section 73A(1) provides that arrestment is permitted only to enforce a court decree (including a summary warrant) or a registered document of debt where the warrant or extract of the decree or document authorises arrestment. “Decree” and “document of debt” are defined in subsection (4). The Scottish Ministers have the power to add, remove or vary these definitions by order made by statutory instrument (subsection (5)). The exercise of this power is subject to negative resolution procedure.
674. Where, however, the decree is a summary warrant, arrestment can be executed only if the debtor has been charged to pay the debt and the period of the charge (14 days, or 28 days if the debtor is outside the UK or the debtor’s whereabouts are unknown) expires without the debt being paid (subsection (2)). In any other case, no prior charge is required before arrestment may be executed. Any existing rule of law relating to the types of decrees or documents on which arrestment can proceed is abolished if the rule is inconsistent with these provisions (subsection (3)).