

# **BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 4 – Land Attachment and Residual Attachment**

#### *Chapter 2 – Attachment of land*

#### **Land attachment**

#### *Section 83 – Notice of land attachment*

251. **Section 83(1)** provides that a notice of land attachment must be in the form prescribed in rules of court and provide a description of the attached land. The description needed will depend on the requirements of the property register within which the notice is to be registered. To be effective, the notice must also be registered in both the relevant property register (either the Register of Sasines or the Land Register – see section 128) and in the Register of Inhibitions.
252. Subsections (2) and (3) provide that a creditor can register a notice of land attachment only where the sum which the creditor has charged the debtor to pay is more than £3,000, or any other sum which the Scottish Ministers prescribe. The power to change this sum is exercisable by regulations subject to affirmative resolution procedure (see section 224(4)(b)(i)).
253. Subsection (4) provides that it is competent to register a single notice of land attachment in relation to two or more sums which the debtor has been charged to pay.
254. Subsection (5) specifies that the notice of land attachment must be served by a judicial officer on the debtor, any person (other than the debtor) who owns the land and any tenant under a long lease of the land, as soon as is practicable after the notice is registered.
255. Subsection (6) provides that if the certificate of service on the debtor is not registered before the 28-day period expires, the notice will be, and will be deemed always to have been, void. Accordingly, no land attachment will be created. Subsection (7) provides for the certificate of service to be in a form prescribed in rules of court and to contain a description of the land to be attached and to be registered in the same way as the notice of land attachment.