

*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**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 6 – Diligence on the Dependence**

#### *Section 169 – Diligence on the dependence*

#### **Execution before service**

New section 15G – Execution of diligence before service of summons

481. Section 15G applies where diligence on the dependence is executed before the summons in the action is served on the debtor. By virtue of sections 15A(3) and 15B(3), “summons” (which is the initiating document in a Court of Session action) is construed here as meaning also a petition (in the Court of Session) and, in the sheriff court, an initial writ (in an ordinary action and in a summary application) and a summons (in a summary cause and in a small claim).
482. Subsection (2) provides that if the summons is not served on the debtor within 21 days of the execution of the diligence on the dependence, the diligence ceases to have effect. This is subject to the power of the court to extend the period within which the summons needs to be served if the diligence is not to fall.
483. Subsections (3) and (4) deal with this and provide that the court may, on the application of the creditor, extend the period having regard to the efforts of the creditor to serve the summons within 21 days and any special circumstances preventing or obstructing service within that period.