

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

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 7 – Interim Attachment**

#### *Section 173 – Interim attachment*

#### **Application for interim attachment**

New section 9C – Application for warrant for interim attachment

520. Section 9C(1) provides that, at any time before a final decision has been taken in a court action, the creditor may apply for warrant for interim attachment. This section should be read with section 9G, which makes it clear that warrant for interim attachment can be applied for, granted and executed before service of the summons in the action.
521. Subsection (2) requires the application for the warrant: (a) to be in the form, or nearly as may be in the form, specified in rules in court; (b) to be intimated to the debtor and any other interested party; (c) to state where an immediate warrant is being sought before a hearing on the application; and (d) to include any other information which the Scottish Ministers require such applications to contain. That power is exercisable by regulations which (by virtue of section 62 of the 2002 Act) are subject to negative resolution procedure.
522. Subsection (3) provides that, where an immediate warrant is sought before a hearing of the application under section 9E, the application for warrant for interim attachment need not be intimated.
523. Subject to section 9D, which enables the court to grant warrant without an initial hearing, subsection (4) requires the court to fix a date for a hearing on the application and to order the creditor to intimate that date to the debtor and any other person the court thinks has an interest.