

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 7 – Interim Attachment

Section 173 – Interim attachment

New section 9G – Execution of interim attachment before service

540. Section 9G applies where an interim attachment is executed before the summons in the action is served on the debtor. By virtue of section 9A(3) and (4), “summons” (which is the initiating document in the Court of Session) 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).
541. Subsection (2) provides that, where the summons is not served on the debtor within 21 days of the execution of the interim attachment, the attachment 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 of the attachment is not to fall.
542. 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.