



# Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

## PART 2

### ATTACHMENT

#### *Attachment*

#### 10 Attachment

- (1) There shall be a form of diligence over corporeal moveable property for recovery of money owed; it is to be known as attachment.
- (2) Attachment is exigible only in execution of a decree or document of debt and only upon property owned (whether alone or in common) by the debtor.
- (3) Attachment is competent only where—
  - [<sup>F1</sup>(a) the debtor has been charged to pay the debt;
  - (b) the period for payment specified in the charge has expired without payment being made; and
  - (c) where the debtor is an individual, the creditor has, no earlier than 12 weeks before taking any steps to execute the attachment, provided the debtor with a debt advice and information package.]

<sup>F2</sup>(4) .....

- (5) In this section—

<sup>F3</sup>  
...

“debt advice and information package” means a document or bundle of documents containing such information (including information regarding the availability of money advice within the debtor’s locality), and in such form, as the Scottish Ministers may determine;

“decree” means—

- (a) a decree of the Court of Session, of the High Court of Justiciary or of the sheriff;

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*Changes to legislation: Debt Arrangement and Attachment (Scotland) Act 2002, Section 10 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (b) a decree of the Court of Teinds;
- (c) a summary warrant;
- (d) a civil judgment granted outside Scotland by a court, tribunal or arbiter which by virtue of any enactment or rule of law is enforceable in Scotland;
- (e) an order or determination which by virtue of any enactment is enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff;
- (f) a warrant granted, in criminal proceedings, for enforcement by civil diligence;
- (g) an order under section 114 of the Companies Clauses Consolidation (Scotland) Act 1845 (c.17);
- (h) a determination under section 46 of the Harbours, Docks and Piers Clauses Act 1847 (c.27); or
- (i) a liability order within the meaning of section 33(2) of the Child Support Act 1991 (c.48),

being a decree, warrant, judgment, order or determination which, or an extract of which, authorises attachment; and

“document of debt” means—

- (a) a document registered for execution in the Books of Council and Session or the sheriff court books; <sup>F4</sup> ...
- (b) a document or settlement which by virtue of an Order in Council made under section 13 of the Civil Jurisdiction and Judgments Act 1982 (c.27) is enforceable in Scotland,
- (c) [<sup>F5</sup>[<sup>F6</sup>a court settlement or authentic instrument (within the meaning of Article 3 of the Hague Convention) which is registered in the sheriff court under the Hague Convention;]
- (d) a maintenance arrangement (within the meaning of Article 3 of the Hague Convention) which is registered in the sheriff court under the Hague Convention,]

[<sup>F7</sup>being a document, bill, settlement, instrument or arrangement] which, or an extract of which, authorises attachment.

[<sup>F8</sup>“the Hague Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007; <sup>F9</sup> ...

<sup>F9</sup> ...]

- (6) The Scottish Ministers may by order modify the definitions of “decree” and “document of debt” in subsection (5) above so as to—
  - (a) add or remove types of decree or document to or, as the case may be, from those referred to in that provision; or
  - (b) vary any of the descriptions of the types of decree or document there referred to.
- (7) In this Act, references to attaching are references to the execution of attachment.

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### Textual Amendments

- F1** S. 10(3)(a)-(c) substituted for s. 10(3)(a) (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\), s. 227\(3\), Sch. 5 para. 30\(2\)](#) (with s. 223); S.S.I. 2008/115, art. 3(2)(3), Sch. 1 (with arts. 4-61015) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F2** S. 10(4) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\), ss. 209\(1\), 227\(3\)](#) (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-61015) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F3** Words in s. 10(5) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\), reg. 1\(1\), Sch. para. 24\(a\)](#) (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in s. 10(5) omitted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by virtue of [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\), reg. 1\(b\), Sch. para. 2\(2\)\(b\)\(i\)](#)
- F5** Words in s. 10(5) inserted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\), reg. 1\(b\), Sch. para. 2\(2\)\(b\)\(ii\)](#)
- F6** S. 10(5) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\), reg. 1\(1\), Sch. para. 24\(b\)\(i\)](#) (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 10(5) substituted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\), reg. 1\(b\), Sch. para. 2\(2\)\(c\)](#)
- F8** Definitions in s. 10(5) inserted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\), reg. 1\(b\), Sch. para. 2\(2\)\(d\)](#)
- F9** Words in s. 10(5) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\), reg. 1\(1\), Sch. para. 24\(b\)\(ii\)](#) (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 10(5) words substituted by [2007 asp 3 s. 212\(7\)](#) (This amendment not applied to legislation.gov.uk. S. 212(7) repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- s. 10(5) words substituted by [2008 c. 6 Sch. 7 para. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

**Commencement Orders yet to be applied to the Debt Arrangement and Attachment (Scotland) Act 2002**

Commencement Orders bringing provisions within this Act into force:

- [S.S.I. 2004/401 art. 3](#) commences ([2002 asp 17](#))