



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—
 - (a) subject to subsection (4) below, the debtor has been charged to pay, within such period as is specified in the charge, the sum specified in the decree or document of debt, together with any interest accrued on the sum; and
 - (b) the creditor has, before taking any steps to execute an attachment, provided the debtor with a debt advice and information package.
- (4) An attachment in pursuance of a summary warrant may be proceeded with in the absence of a charge to pay.
- (5) In this section—

“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;
 - (b) a decree of the Court of Teinds;

Status: This is the original version (as it was originally enacted).

- (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; or
- (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,

being a document, bill or settlement which, or an extract of which, authorises attachment.

- (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.