



# Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

## PART 2

### ATTACHMENT

*Attachment: further procedure*

#### **21 Unlawful acts after attachment**

- (1) The debtor or person in possession of an attached article shall not move it from the place at which it was attached.
- (2) If an article is so moved—
  - (a) the debtor or, as the case may be, the person in possession of the attached articles is acting in breach of the attachment; and
  - (b) the sheriff may, on an application by the creditor or by the officer, by order authorise the attachment of other articles which are owned by the debtor and kept at the place at which the original attachment was executed.
- (3) Subsection (1) above does not apply in relation to any vehicle in respect of which an application for an order under subsection (1) or (3) of section 22 below has been made but not disposed of.
- (4) The debtor shall not sell, make a gift of or otherwise relinquish ownership of any attached article.
- (5) If an attached article is so sold, gifted or otherwise disposed of the debtor is acting in breach of the attachment.
- (6) Any person who wilfully damages or destroys any article which that person knows has been attached is acting in breach of the attachment.
- (7) Where an attached article is stolen, the debtor shall give notice to the creditor and the officer of that fact and of any related claim which the debtor makes, or intends to make, under a contract of insurance.

- (8) Any debtor who fails to give notice as required by subsection (7) above is acting in breach of the attachment.
- (9) Any act which is, under subsection (2), (5), (6) or (8) above, a breach of the attachment may be dealt with as a contempt of court.
- (10) Where attached articles are damaged, destroyed or stolen the sheriff, on an application by the creditor or by the officer, may by order authorise—
- (a) the attachment of other articles which are owned by the debtor and kept at the place at which the original attachment was executed;
  - (b) the revaluation of any damaged article in accordance with subsection (2) or (3) of section 15 above.
- (11) Where the debtor or any third party who knows that an article is attached—
- (a) moves it from the place at which the attachment was executed, and it is—
    - (i) damaged, destroyed, lost or stolen; or
    - (ii) acquired from or through the debtor or, as the case may be, the third party by another person without knowledge of the attachment and for value; or
  - (b) wilfully damages or destroys it,
- the sheriff may order the debtor or, as the case may be, the third party to consign the sum set out in subsection (12) below in court.
- (12) That sum is—
- (a) where the article has been damaged but not so damaged as to make it worthless, a sum equal to the difference between the value of the article fixed under subsection (2) or (3) of section 15 above or, as the case may be, under section 51 or 54(1) below and the value of the article so damaged; or
  - (b) in any other case, a sum equal to the value of the article as fixed under subsection (2) or (3) of section 15 above or, as the case may be, under section 51 or 54(1) below.
- (13) For the purposes of subsection (12)(a) above, the officer shall, subject to subsection (14) below, value a damaged article at the price which it is likely to fetch if sold in that condition on the open market.
- (14) Where the officer considers that a damaged article is such that a valuation by a professional valuer or other suitably skilled person is appropriate, the officer shall arrange for such a valuation and a valuation so arranged shall proceed on the basis set out in subsection (13) above.
- (15) Any sum consigned in court in pursuance of an order made under subsection (11) above shall, where the attachment of a damaged article ceases to have effect before it is auctioned, be paid to the creditor to the extent necessary to meet the sum recoverable, any surplus thereof being paid to the debtor.