



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

PART 2

ATTACHMENT

Auction of attached articles

33 Audit of report of auction

- (1) The sheriff shall remit the report of auction to the auditor of court who shall—
 - (a) tax the chargeable expenses;
 - (b) certify the balance due by or to the debtor following the auction; and
 - (c) make a report to the sheriff.
- (2) The auditor of court shall not alter the report of auction without first providing all interested persons an opportunity to make representations.
- (3) The auditor of court shall not charge a fee in respect of the report made under subsection (1)(c) above.
- (4) On receipt of a report made under subsection (1)(c) above the sheriff shall make an order—
 - (a) declaring the balance due by or to the debtor, as certified by the auditor of court;
 - (b) declaring such a balance after making modifications to the balance so certified; or
 - (c) where the sheriff is satisfied that there has been a substantial irregularity in the execution of the attachment (other than the timing of the report of auction), declaring the attachment and auction to be void.
- (5) An order made under subsection (4)(c) above may make such consequential provision as the sheriff thinks fit.

Changes to legislation: There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 33. (See end of Document for details)

- (6) An order made under subsection (4)(c) above shall not affect the title of a person to any article acquired by that person at the auction, or subsequently, in good faith.
- (7) The sheriff may not make an order under subsection (4)(b) or (c) above without first
- [^{F1}(a) giving—
 - (i) the debtor;
 - (ii) the creditor; and
 - (iii) any third party who claims ownership (whether alone or in common with the debtor) of any attached article,
 an opportunity to make representations; or
 - (b) holding a hearing.]
- (8) The sheriff clerk shall intimate the sheriff's order under subsection (4) above to the [^{F2}persons mentioned in subsection (7)(a) above.].

Textual Amendments

- F1** S. 33(7)(a)(b) substituted (22.4.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), [Sch. 5 para. 30\(9\)\(a\)](#) (with s. 223); S.S.I. 2009/67, art. 3(2)(3), Sch. 1 (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))
- F2** Words in s. 33(8) substituted (22.4.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), [Sch. 5 para. 30\(9\)\(b\)](#) (with s. 223); S.S.I. 2009/67, art. 3(2)(3), Sch. 1 (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))

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