



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

PART 3

ATTACHMENT OF ARTICLES KEPT IN DWELLINGHOUSES: SPECIAL PROCEDURE

48 Exceptional circumstances

- (1) The reference in section 47(1) above to the sheriff being satisfied that there are exceptional circumstances is to be regarded as a reference to the sheriff being satisfied—
- (a) that the creditor has taken reasonable steps to negotiate (or seek to negotiate) a settlement of the debt;
 - (b) that the creditor has executed, or so far as it is reasonable to do so has attempted to execute—
 - (i) an arrestment and action of furthcoming or sale; and
 - (ii) an earnings arrestment,in order to secure payment of the debt;
 - (c) that there is a reasonable prospect that the sum recovered from an auction of the debtor's non-essential assets would be at least equal to the aggregate of the following—
 - (i) a reasonable estimate of any chargeable expenses; and
 - (ii) £100 or such other amount as may be specified by order made by the Scottish Ministers; and
 - (d) that, having had regard to the matters set out in section 47(4) above and any other matters which the sheriff considers appropriate, it would be reasonable in the circumstances to grant the exceptional attachment order.
- (2) For the purposes of subsection (1)(b) above, a creditor who has not proceeded with the diligences referred to in that subsection on the ground that so proceeding would be unlikely to recover the aggregate of—
- (a) a reasonable estimate of the expenses likely to be incurred by the creditor in exercising the diligences; and

Changes to legislation: *There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 48. (See end of Document for details)*

(b) £100 or such other amount as may be specified by order made by the Scottish Ministers,
is to be treated as having attempted to execute those diligences in so far as it is reasonable to do so.

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