



# Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

## [<sup>F1</sup>PART 1A

### INTERIM ATTACHMENT

#### *General and miscellaneous provisions*

#### [<sup>F1</sup>9Q Recovery of expenses of interim attachment

- (1) Subject to subsection (4) below, any expenses chargeable against the debtor which are incurred in executing an interim attachment shall be recoverable only by attachment—
  - (a) in execution of a decree granted by virtue of—
    - (i) the conclusion for payment in the action on the dependence of which the warrant for interim attachment was granted; or
    - (ii) another conclusion in the creditor's favour in that action; or
  - (b) where the final interlocutor in the action is of absolvitor or dismissal, in execution of a decree granted under and for the purposes of this subsection.
- (2) Where any such expenses cease to be recoverable in pursuance of subsection (1) above, they cease to be chargeable against the debtor.
- (3) Subsection (4) below applies where interim attachment is—
  - (a) recalled under section 2(3), 3(1)(b), 9(2)(cb) or 10(1)(b) of the 1987 Act in relation to a time to pay direction or order;
  - (b) in effect immediately before the date of sequestration (within the meaning of the Bankruptcy (Scotland) Act [<sup>F2</sup>2016] ) of the debtor's estate;
  - (c) in effect immediately before the appointment of an administrator under Part II of the Insolvency Act 1986 (c. 45);
  - (d) in effect against property of the debtor immediately before a floating charge attaches all or part of that property under section 53(7) (attachment on appointment of receiver by holder of charge) or 54(6) (attachment on appointment of receiver by court) of the 1986 Act;

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**Changes to legislation:** There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 9Q. (See end of Document for details)

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- (e) in effect immediately before the commencement of the winding up, under Part IV or V of the 1986 Act, of the debtor; or
  - (f) rendered unenforceable by virtue of the creditor entering into a composition contract or acceding to a trust deed for creditors or by virtue of the subsistence of a protected trust deed within the meaning of Schedule [F<sup>3</sup>4 of the 2016] Act.
- (4) Where this subsection applies—
- (a) the expenses of the interim attachment which were chargeable against the debtor remain so chargeable; and
  - (b) if the debtor's obligation to pay the expenses is not discharged under or by virtue of the time to pay direction or order, sequestration, appointment, receivership, winding up, composition contract or trust deed for creditors, those expenses are recoverable in pursuance of subsection (1) above.]

#### Textual Amendments

- F1** Pt. 1A inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 173, 227\(3\)](#) (with [s. 223](#)); [S.S.I. 2008/115](#), [art. 3\(1\)\(c\)](#) (with [arts. 4-6, 10, 15](#)) (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** Word in [s. 9Q\(3\)\(b\)](#) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), [s. 237\(2\)](#), [sch. 8 para. 18\(2\)\(a\)](#) (with [ss. 232, 234\(3\), 235, 236](#)); [S.S.I. 2016/294](#), [reg. 2](#)
- F3** Words in [s. 9Q\(3\)\(f\)](#) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), [s. 237\(2\)](#), [sch. 8 para. 18\(2\)\(b\)](#) (with [ss. 232, 234\(3\), 235, 236](#)); [S.S.I. 2016/294](#), [reg. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Section 9Q.