

BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Commentary

Part 4 – Land Attachment and Residual Attachment

Chapter 2 – Attachment of land

Land attachment

Section 82 – Attachable land

247. **Section 82(1)** defines what is meant by “land” in this Chapter and, therefore, the property of the debtor which may be attached by land attachment. This is land which is either owned by the debtor or is the right of long lease of land in relation to which the debtor is the tenant.
248. Subsection (2) provides that such land or long lease is attachable only if the debtor has a recorded or registered title to the land or lease. That subsection also excludes proper liferents.
249. In addition, by virtue of subsections (2) and (3), long leases which are not assignable cannot be attached by land attachment. A long lease which is assignable but only with the consent of the landlord is not to be regarded as unassignable and can be attached. Only leases which are not assignable under any circumstances may not be attached by land attachment.
250. “Land” is used throughout this Chapter of this Act (rather than “land or, as the case may be, long lease” but that needs to be read with section 128(2), which modifies such references (including references to ownership, purchase, sale, conveyance and disposition) so that they include references to, for instance, the right of long lease and to assignation.