

*These notes relate to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) which received Royal Assent on 15 January 2007*

# **BANKRUPTCY AND DILIGENCE ETC. (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 6 – Diligence on the Dependence**

#### *Section 169 – Diligence on the dependence*

#### **Availability of diligence on the dependence**

New section 15A – Diligence on the dependence of action

456. Section 15A(1) gives the Court of Session and the sheriff court equivalent powers to grant warrants for arrestment (including, to a certain extent, admiralty arrestments – see new section 15N) and inhibition on the dependence of a court action. How far the courts can exercise these powers is given further content by subsection (2) and sections 15C to 15F.
457. Subsection (1) extends the powers of sheriffs by giving them the power to grant a warrant for inhibition on the dependence. Under the present law, a pursuer who wishes to inhibit on the dependence of a sheriff court action has to obtain the warrant to do so from the Court of Session using a procedure which involves preparation and presentation of an Act and Letters of Inhibition. This procedure is abolished by section 146(6) of this Act.
458. Subsection (2) provides that a warrant for arrestment on the dependence is competent only where the action on the dependence of which it is sought contains a conclusion for payment of a sum of money other than expenses. Warrant for inhibition on the dependence is competent only where the action contains a similar conclusion for payment of money or where it contains a conclusion seeking specific implement of an obligation to convey heritable property to the creditor or to grant the creditor a real right in security, or some other right, over heritable property.
459. Subsection (3) provides that “action” in this Part of the 1987 Act includes in the sheriff court those brought as summary causes, small claims and summary applications as well as those brought as ordinary actions.