



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 4

LAND ATTACHMENT AND RESIDUAL ATTACHMENT

CHAPTER 2

ATTACHMENT OF LAND

Termination, discharge etc. of land attachment

123 Recall and restriction of land attachment

- (1) The debtor or any other person having an interest may apply to the sheriff for an order—
 - (a) recalling a land attachment; or
 - (b) restricting such an attachment.
- (2) An application under subsection (1) above must—
 - (a) be in (or as nearly as may be in) the form prescribed by Act of Sederunt; and
 - (b) be intimated to the creditor.
- (3) The sheriff must, if satisfied—
 - (a) that the land attachment—
 - (i) is invalid;
 - (ii) has been executed incompetently or irregularly; or
 - (iii) has ceased to have effect; or
 - (b) that the creditor is, under section 122(2)(b) of this Act, obliged to discharge it, make an order declaring that to be the case and recalling the land attachment.
- (4) The sheriff may, if satisfied that a land attachment is valid but—

Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Section 123. (See end of Document for details)

- (a) having regard to the sum recoverable by the land attachment, that significantly more land is attached than need be; and
 - (b) that it is reasonable to do so,
- make an order restricting the effect of the land attachment to part only of the land to which it relates.
- (5) An order of recall or restriction must be in (or as nearly as may be in) the form prescribed by Act of Sederunt.
 - (6) It is competent for a person who obtains an order of recall or restriction to register that order in the appropriate property register.

Commencement Information

- II** S. 123 partly in force; s. 123 not in force at Royal Assent see s. 227; s. 123(2)(a)(5) in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(4), Sch. 3 (with arts. 4-6, 10)

Changes to legislation:

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