



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 4

### LAND ATTACHMENT AND RESIDUAL ATTACHMENT

#### CHAPTER 3

##### RESIDUAL ATTACHMENT

###### *Satisfaction order*

#### **136      Satisfaction order**

- (1) At the hearing on an application under section 135(1) of this Act, the court must not make any order without first giving any person who has lodged objections under subsection (4) of that section an opportunity to be heard.
- (2) Subject to subsection (6) below, the court may, if satisfied that the application is in order, make—
  - (a) a satisfaction order authorising the satisfaction of the sum recoverable by the residual attachment out of the attached property (or part of it) specified in the order; and
  - (b) any other order which the court thinks fit in consequence of the satisfaction order.
- (3) A satisfaction order must—
  - (a) specify the attached property to which it applies; and
  - (b) require the creditor to intimate the order to—
    - (i) the debtor; and
    - (ii) any other person the court specifies.
- (4) Without prejudice to the generality of subsection (2) above, a satisfaction order may authorise—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the creditor to sell the attached property;
  - (b) the transfer of ownership of the property to the creditor;
  - (c) the transfer of income derived from the property to the creditor; or
  - (d) the creditor to lease or licence the property.
- (5) Where the court makes a satisfaction order—
  - (a) authorising the sale of attached property, it must—
    - (i) appoint a suitably qualified person (in this Chapter, the “appointed person”) who is willing to execute the order; and
    - (ii) specify in the order the period within which the attached property is to be sold;
  - (b) it may appoint a suitably qualified person to report on the market value of the attached property.
- (6) The court must make an order refusing the application for a satisfaction order if satisfied that any of the grounds mentioned in subsection (7) below apply.
- (7) The grounds referred to in subsection (6) above are—
  - (a) the residual attachment is invalid;
  - (b) the residual attachment has ceased to have effect; or
  - (c) that—
    - (i) were the satisfaction order proposed in the application made, it would not result in the value of that property being realised; or
    - (ii) were that order made and the value of that property realised, it would not result in the sum recoverable by the residual attachment being paid off or reduced.
- (8) The court may, if satisfied that making a satisfaction order would be unduly harsh to the debtor or any other person having an interest—
  - (a) make a satisfaction order but suspend its effect for a period not exceeding 1 year beginning with the day on which the order is made; or
  - (b) make an order refusing the application.