

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

---

## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary*

#### **Part 4 – Land Attachment and Residual Attachment**

#### *Chapter 3 – Residual attachment*

#### **Satisfaction order**

#### *Section 136 – Satisfaction order*

392. This section provides for the making and effects of a satisfaction order.
393. Subsection (1) provides that, at the hearing on the application, under section 135(1), for the satisfaction order, the court must allow those who have lodged objections an opportunity to be heard.
394. Subsection (2) provides for when the court can make a satisfaction order. The court may make a satisfaction order if it is satisfied the application is in order and provided it is not obliged by subsection (6) to refuse the application. Subsection (3) provides that a satisfaction order must specify the property to which it applies and must require the creditor to intimate it to the debtor and other persons the court specifies.
395. Under subsection (4), a satisfaction order may authorise the sale of the attached property, the transfer of the property to the creditor, the transfer of income derived from the property to the creditor or the granting by the creditor of leases or licences of the property. The types of order listed in subsection (4) are not exclusive. In addition, section 129(7)(d) envisages that the Scottish Ministers may make provision for the types of satisfaction orders that may be made in respect of particular types of property.
396. Where a satisfaction order is made which authorises sale of the property, the court must appoint a qualified person to carry out the sale and specify a period within which that should happen (the “appointed person” – see subsection (5)(a)). In the case of any kind of satisfaction order, the court may appoint a suitably qualified person to provide a report to the court on the market value of the property (subsection (5)(b)).
397. Subsections (6) and (7) determine when the court must refuse an application for a satisfaction order. The grounds in subsection (7) partially mirror those in section 132(4) (grounds for refusing application for residual attachment order).
398. Subsection (8) gives the court power, if it thinks that making a satisfaction order would be unduly harsh to the debtor or a third party, to either refuse the application or make one but suspend it for a year.