



# Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

## PART 2

### ATTACHMENT

#### *Attachment of articles kept outwith dwellinghouses etc.*

#### **14 Procedure for attachment of articles kept outwith dwellinghouses etc.**

Sections 15 to [F119A] below apply only in relation to the attachment of articles which are—

- (a) kept outwith a dwellinghouse; or
- (b) mobile homes which are not the only or principal residence of the debtor.

#### **Textual Amendments**

- F1** Word in s. 14 substituted (31.3.2007 for specified purposes) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **Sch. 5 para. 30(5)** (with s. 223); S.S.I. 2007/82, art. 4(e)(i)

#### **15 [F2Valuation]**

- (1) An officer may open shut and lockfast places for the purposes of executing an attachment.
- (2) When executing an attachment the officer shall, subject to subsection (3) below, value the articles being attached at the price which they are likely to fetch if sold on the open market.
- (3) Where the officer considers that an article is such that a valuation by a professional valuer or other suitably skilled person is appropriate, the officer shall arrange for such a valuation and a valuation so arranged shall proceed on the basis set out in subsection (2) above.

*Changes to legislation: There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Cross Heading: Attachment of articles kept outwith dwellinghouses etc.. (See end of Document for details)*

### Textual Amendments

**F2** S. 15 substituted (31.3.2007 for specified purposes) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), s. 227(3), [Sch. 5 para. 30\(6\)](#) (with s. 223); S.S.I. 2007/82, art. 4(e)(i)

## 16 Attachment of mobile homes

- (1) Where a mobile home which is the only or principal residence of a person other than the debtor has been attached—
  - (a) the officer shall give notice to that other person of that fact; and
  - (b) the sheriff may, on an application by the debtor or that other person, order that the attachment of the mobile home is to cease to have effect.
- (2) The sheriff—
  - (a) shall consider any application for an order under subsection (1) above which is made before the date which is 14 days after the date on which the mobile home is attached; and
  - (b) may, on cause shown, consider any such application which is made at any time after that date but before the date on which the attached mobile home is auctioned.

## 17 Report of attachment

- (1) The officer shall, within 14 days of the execution of an attachment (or such longer period as the sheriff on cause shown may allow on application by the officer), make to the sheriff a report of the attachment.
- (2) A report made under subsection (1) above shall—
  - (a) be in the form prescribed by Act of Sederunt; and
  - (b) be signed by the officer.
- (3) Such a report shall specify—
  - (a) whether any person, in response to enquires made under section 13(2) above, asserted that any attached article is not owned by the debtor (or is owned in common by the debtor and a third party);
  - (b) whether any attached article has been redeemed under section 18(1) below.
- (4) Such a report need not be made in respect of any article or vehicle which has been sold in pursuance of an order made under section 20(1)(b) or, as the case may be, 22(3) below.
- (5) The sheriff may refuse to receive such a report on the ground that it has not been made and signed in accordance with subsections (1) and (2) above.
- (6) If the sheriff so refuses—
  - (a) the attachment to which the report relates is to cease to have effect; and
  - (b) the sheriff clerk shall intimate the refusal to—
    - (i) the debtor; and
    - (ii) if another person is in possession of the attached articles, that person.

## 18 Redemption

- (1) Subject to any order made under section 20(1)(b) below, the debtor is entitled, within 14 days of the date on which an article is attached, to redeem that article.
- (2) The amount for which such an article may be redeemed is the value fixed under subsection (2) or (3) of section 15 above.
- (3) The officer shall, on receiving payment from the debtor for the redemption of an attached article, grant a receipt in the form prescribed by Act of Sederunt to the debtor.
- (4) The attachment of the article is, on the grant of such a receipt, to cease to have effect.
- (5) Where an article is redeemed after the officer has made a report under section 17(1) above in respect of the attachment, the officer shall report the redemption as soon as is reasonably practicable to the sheriff.

## 19 Removal and auction of attached articles

- (1) [<sup>F3</sup>An officer] may, after the report of attachment has been received by the sheriff—
  - (a) make arrangements for the auction of the attached articles; and
  - (b) on the date specified in the notice given under section 27(4) below, remove the attached articles from the place at which they are kept.
- (2) The officer may open shut and lockfast places for the purpose of so removing the attached articles.
- (3) The officer may not remove any vehicle in respect of which an application for an order under subsection (1) or (3) of section 22 below has been made but not disposed of.
- (4) The officer may remove to the place at which the auction is to be held such attached articles as, if sold at their values fixed under subsection (2) or, as the case may be, (3) of section 15 above, would realise in aggregate the sum recoverable at the time of the auction.
- (5) The remaining attached articles will cease to be subject to attachment.
- (6) An attached article shall not, subject to any order made under section 20(1)(b) or 22(3) below, be auctioned before the date which is 7 days after the date on which the article is removed by the officer from the place at which it was attached.

### Textual Amendments

- F3** Words in s. 19(1) substituted (31.3.2007) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), ss. **212(8)**, 227(3) (with s. 223); S.S.I. 2007/82, art. 4(b)

## [<sup>F4</sup>19A Urgent removal of attached articles

- (1) The officer may at any time remove an attached article without notice if—
  - (a) the officer considers it necessary for—
    - (i) the security; or
    - (ii) the preservation of the value, of the article; and
  - (b) there is insufficient time to obtain an order under section 20(1)(a) below.

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**Changes to legislation:** There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Cross Heading: Attachment of articles kept outwith dwellinghouses etc.. (See end of Document for details)

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- (2) The officer shall remove an article under subsection (1) above—
- (a) to the nearest convenient premises of the debtor or the person in possession of the articles; or
  - (b) if—
    - (i) no such premises are available; or
    - (ii) the officer considers such premises to be unsuitable, to the nearest suitable secure premises.
- (3) Subsections (2) and (6) of section 19 above shall apply to this section as they apply to that section.]

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#### **Textual Amendments**

- F4** S. 19A inserted (31.3.2007) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. **212(9)**, 227(3) (with s. 223); S.S.I. 2007/82, art. 4(b)

**Changes to legislation:**

There are currently no known outstanding effects for the Debt Arrangement and Attachment (Scotland) Act 2002, Cross Heading: Attachment of articles kept outwith dwellinghouses etc..