



Debt Arrangement and Attachment (Scotland) Act 2002

2002 asp 17

PART 2

ATTACHMENT

Attachment

10 Attachment

- (1) There shall be a form of diligence over corporeal moveable property for recovery of money owed; it is to be known as attachment.
- (2) Attachment is exigible only in execution of a decree or document of debt and only upon property owned (whether alone or in common) by the debtor.
- (3) Attachment is competent only where—
 - [^{F1}(a) the debtor has been charged to pay the debt;
 - (b) the period for payment specified in the charge has expired without payment being made; and
 - (c) where the debtor is an individual, the creditor has, no earlier than 12 weeks before taking any steps to execute the attachment, provided the debtor with a debt advice and information package.]

^{F2}(4)

- (5) In this section—

^{F3}
...

“debt advice and information package” means a document or bundle of documents containing such information (including information regarding the availability of money advice within the debtor’s locality), and in such form, as the Scottish Ministers may determine;

“decree” means—

- (a) a decree of the Court of Session, of the High Court of Justiciary or of the sheriff;

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- (b) a decree of the Court of Teinds;
- (c) a summary warrant;
- (d) a civil judgment granted outside Scotland by a court, tribunal or arbiter which by virtue of any enactment or rule of law is enforceable in Scotland;
- (e) an order or determination which by virtue of any enactment is enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff;
- (f) a warrant granted, in criminal proceedings, for enforcement by civil diligence;
- (g) an order under section 114 of the Companies Clauses Consolidation (Scotland) Act 1845 (c.17);
- (h) a determination under section 46 of the Harbours, Docks and Piers Clauses Act 1847 (c.27); or
- (i) a liability order within the meaning of section 33(2) of the Child Support Act 1991 (c.48),

being a decree, warrant, judgment, order or determination which, or an extract of which, authorises attachment; and

“document of debt” means—

- (a) a document registered for execution in the Books of Council and Session or the sheriff court books; ^{F4} ...
- (b) a document or settlement which by virtue of an Order in Council made under section 13 of the Civil Jurisdiction and Judgments Act 1982 (c.27) is enforceable in Scotland,
- (c) [^{F5}^{F6}a court settlement or authentic instrument (within the meaning of Article 3 of the Hague Convention) which is registered in the sheriff court under the Hague Convention;]
- (d) a maintenance arrangement (within the meaning of Article 3 of the Hague Convention) which is registered in the sheriff court under the Hague Convention,]

[^{F7}being a document, bill, settlement, instrument or arrangement] which, or an extract of which, authorises attachment.

[^{F8}“the Hague Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007; ^{F9} ...

^{F9} ...]

- (6) The Scottish Ministers may by order modify the definitions of “decree” and “document of debt” in subsection (5) above so as to—
 - (a) add or remove types of decree or document to or, as the case may be, from those referred to in that provision; or
 - (b) vary any of the descriptions of the types of decree or document there referred to.
- (7) In this Act, references to attaching are references to the execution of attachment.

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Textual Amendments

- F1** S. 10(3)(a)-(c) substituted for s. 10(3)(a) (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **Sch. 5 para. 30(2)** (with s. 223); S.S.I. 2008/115, art. 3(2)(3), Sch. 1 (with arts. 4-61015) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F2** S. 10(4) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 209(1), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-61015) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F3** Words in s. 10(5) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), **Sch. para. 24(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in s. 10(5) omitted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by virtue of [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\)](#), reg. 1(b), **Sch. para. 2(2)(b)(i)**
- F5** Words in s. 10(5) inserted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\)](#), reg. 1(b), **Sch. para. 2(2)(b)(ii)**
- F6** S. 10(5) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), **Sch. para. 24(b)(i)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 10(5) substituted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\)](#), reg. 1(b), **Sch. para. 2(2)(c)**
- F8** Definitions in s. 10(5) inserted (coming into force in accordance with reg 1(b) of the amending S.S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/301\)](#), reg. 1(b), **Sch. para. 2(2)(d)**
- F9** Words in s. 10(5) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), **Sch. para. 24(b)(ii)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

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Changes and effects yet to be applied to :

- s. 10(5) words substituted by [2007 asp 3 s. 212\(7\)](#) (This amendment not applied to legislation.gov.uk. S. 212(7) repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- s. 10(5) words substituted by [2008 c. 6 Sch. 7 para. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(1)(a)(b) substituted for words by [2024 asp 9 s. 18\(3\)](#)

Commencement Orders yet to be applied to the Debt Arrangement and Attachment (Scotland) Act 2002

Commencement Orders bringing provisions within this Act into force:

- [S.S.I. 2004/401 art. 3](#) commences ([2002 asp 17](#))