



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 4

LAND ATTACHMENT AND RESIDUAL ATTACHMENT

CHAPTER 3

RESIDUAL ATTACHMENT

Termination, discharge etc. of residual attachment

140 Recall

- (1) The debtor or any other person having an interest may apply to the court for an order—
 - (a) recalling a residual 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 court must, if satisfied that the residual attachment—
 - (a) is invalid;
 - (b) has been executed incompetently or irregularly; or
 - (c) has ceased to have effect,make an order declaring that to be the case and recalling the residual attachment.
- (4) The court may, if satisfied that the residual attachment is valid but—
 - (a) having regard to the sum recoverable by the residual attachment, that significantly more property is attached than need be; and
 - (b) that it is reasonable to do so,

Status: This is the original version (as it was originally enacted).

make an order restricting the effect of a residual attachment to part only of the property 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.