



Debtors (Scotland) Act 1987

1987 CHAPTER 18

^{F1}^{F1}PART 1A

DILIGENCE ON THE DEPENDENCE

Application for diligence on the dependence

^{F1}15E Grant of warrant without a hearing

- (1) The court may, if satisfied as to the matters mentioned in subsection (2) below, make an order granting warrant for diligence on the dependence without a hearing on the application under section 15F of this Act.
- (2) The matters referred to in subsection (1) above are—
 - (a) that the creditor has a prima facie case on the merits of the action;
 - (b) that there is a real and substantial risk enforcement of any decree in the action in favour of the creditor would be defeated or prejudiced by reason of—
 - (i) the debtor being insolvent or verging on insolvency; or
 - (ii) the likelihood of the debtor removing, disposing of, burdening, concealing or otherwise dealing with all or some of the debtor's assets, were warrant for diligence on the dependence not granted in advance of such a hearing; and
 - (c) that it is reasonable in all the circumstances, including the effect granting warrant may have on any person having an interest, to do so.
- (3) The onus shall be on the creditor to satisfy the court that the order granting warrant should be made.
- (4) Where the court makes an order granting warrant for diligence on the dependence without a hearing on the application under section 15F of this Act, the court shall—
 - (a) fix a date for a hearing under section 15K of this Act; and
 - (b) order the creditor to intimate that date to—
 - (i) the debtor; and

Changes to legislation: *Debtors (Scotland) Act 1987, Section 15E is up to date with all changes known to be in force on or before 09 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (ii) any other person appearing to the court to have an interest.
- (5) Where a hearing is fixed under subsection (4)(a) above, section 15K of this Act shall apply as if an application had been made to the court for an order under that section.
- (6) Where the court refuses to make an order granting a warrant without a hearing under section 15F of this Act and the creditor insists in the application, the court shall—
 - (a) fix a date for such a hearing on the application; and
 - (b) order the creditor to intimate that date to—
 - (i) the debtor; and
 - (ii) any other person appearing to the court to have an interest.]

Textual Amendments

- F1** Pt. 1A inserted (1.4.2008 except for the insertion of s. 15H(4), 22.4.2009 in so far as not already in force) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 169, 227(3)** (with s. 223); [S.S.I. 2008/115](#), art. 3(1)(b)(i) (with arts. 4-6, 10, 15) (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); [S.S.I. 2009/67](#), art. 3(1)(c) (with arts. 4-6) (as amended (31.1.2011) by [S.S.I. 2011/31](#), art. 5(b))

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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. 8(1)(d)(e) substituted for s. 8(1)(d) by [2007 asp 3 Sch. 5 para. 16\(7\)\(a\)\(v\)](#)