



## BRIEFING NOTE:

### Forewarned is forearmed - using Caveats to protect your business

If you have business interests in Scotland, it is worth noting that the Scottish courts have a system of advance notice in place which could minimise the risk of being caught unawares by certain interim court orders against your business, for example interim interdict or the appointment of a provisional liquidator.

The system is simple to use, only requiring the lodging of an annual caveat with either the Court of Session or any of the Sheriff Courts. Rod Macphail, Archibald Campbell & Harley's managing partner, explains how you can use this simple procedure to protect your business.

In common with the rest of the UK, Scotland has its own system for granting interim interdicts which can stop your business operating until the dispute has been resolved by the Courts. But there is a simple way to at least be warned that this is about to happen – by lodging a Caveat. For a single annual registration, you will be warned if anyone applies for an interim interdict against your business.

Forewarned means forearmed: you can either accept the interim interdict, or, by knowing about it in advance, you can oppose it. It is easy to see how this advance warning could maintain the continuity of your business.

#### LODGING A CAVEAT – HOW IT WORKS

If you take the precaution of lodging a Caveat in the Court of Session or any of the Sheriff Courts, your solicitor will be advised of an impending interim interdict before the application has been heard by the Court. This gives you the opportunity to get advice immediately and, more importantly, to be represented before the Court. The Courts will aim to give parties 24 hours notice, but in reality there may only a few hours to make a case.

#### WHAT DOES IT COST TO REGISTER?

Caveats can be lodged in the Court of Session and also in any of the Sheriff Courts. It costs £27 to lodge a Caveat in the Court of Session; £19 in the Sheriff Court.

It remains in force for one year. It can be renewed annually.

#### WHAT ARE THE DRAWBACKS?

Lodging a Caveat in one Sheriff Court will only give you warning of an impending interdict for the area in which that Court lies. They will not raise a warning if the action is raised in any other area. The message here is simple: you should lodge Caveats for all the areas in which you have a business interest.

#### CONCLUSION

In terms of risk management, lodging Caveats is a quick, simple and cheap way of helping to protect your business. If you would like further information about the process contact me on **0131 220 3000** or email [rod.macphail@achws.co.uk](mailto:rod.macphail@achws.co.uk)

*Archibald Campbell & Harley has one of Scotland's best rated debt recovery teams, according to the Legal 500 directory of legal firms. Led by Managing Partner, Rod Macphail, the firm handles debt recovery actions on behalf of many of the country's household names and leading financial institutions.*



## CAVEATS FAXBACK

To receive further information on **CAVEATS** please fill out your details below.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company area of business: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Postcode: \_\_\_\_\_

E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

Please faxback on **0131 220 2288** or e-mail:

**[debtrecoveryonline@achws.co.uk](mailto:debtrecoveryonline@achws.co.uk)**

If you would prefer to be contacted directly or have any questions on a current situation, please contact: Rod Macphail on: 0131 220 3000 or email him: [rod.macphail@achws.co.uk](mailto:rod.macphail@achws.co.uk)