

# Caveats - Peace of Mind & Risk Management

MACROBERTS

LLP

In these uncertain and difficult times, caveats are a very sensible step for peace of mind and risk management, for all businesses in Scotland and certain individuals.

## Consider the following scenarios:

You suddenly discover that the supplier with whom the business has been having a long-running, but relatively minor, dispute over payment, has presented a liquidation (winding up) petition to court. Or, the sheriff officer serves a court order in the form of an interdict which stops the business carrying out a key part of its activities.

As if the consequences of such orders are not bad enough, one of the most distressing aspects of having an order served against the company in such a way is that it often comes as a complete surprise, and has the potential to turn a business inside out.

## Protection

We can help to protect you and your business by ensuring that we are given prior warning if any of these types of orders are sought against your company, by lodging a form of legal early warning system known as a 'caveat', only available in Scotland.

Caveats are lodged in the Court of Session and at each Sheriff Court where such an order is likely to be made – usually any places of business, your registered office and locations of substantial contracts. Caveats have a lifespan of one year and we help to ensure continuous protection for our clients by sending a renewal reminder before expiry.

Having a caveat in place as a matter of course provides peace of mind and the major benefit of the owner of the business having the opportunity, not otherwise available, to defend the application.

## Extra time

Caveats can buy you and your business some much needed time. For instance, if a caveat is lodged on behalf of a company and a petition to wind-up the



company is lodged, we will be notified once the caveat is triggered. Importantly, caveats will delay the advertisement of the winding-up petition in the press, meaning the application for winding-up is much less likely to become public knowledge in the event that matters are promptly resolved.

In respect of an interdict, the extra time afforded with a caveat in place often means a negotiated resolution can be reached, avoiding a court hearing.

Caveats can also be lodged for individuals, who may be involved in a dispute. Examples include employment disputes involving restrictive covenants, property disputes with a neighbour, or payment disputes where bankruptcy may be threatened.

## Risk management

Having caveats in place is a very simple, straightforward and inexpensive answer for a business to avoid these situations and should form a fundamental part of every company's risk management strategy. We offer this service on a very competitive fixed fee basis.

Lodging a caveat is one easy way to avoid the possibility of rapid business failure or, at the very least, serious disruption.

## Contact our legal advisers



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## What our clients say

*"We have found them helpful, knowledgeable and proactive in the advice they have offered and innovative in the solutions they have suggested."*

**Chambers UK Guide to the Legal Profession**

## About Us

MacRoberts is one of Scotland's leading law firms with a history and heritage tracing back over 150 years. Through the delivery of high-quality, innovative and practical solutions for clients, along with an impressive ability to adapt to the contemporary commercial landscape, we have maintained a position of leadership and prestige in the Scottish legal sector and beyond.

Our strength comes from our collaborative relationships and connections – we have an extensive network of clients and contacts throughout Scotland, as well as strong links to the wider UK and international markets.

We are more than just lawyers – we are industry experts with unrivalled commitment to the sectors in which our clients operate. In this era of digital revolution and economic difficulty, we have risen to the challenge in the same way we have done for more than 150 years – with sophistication, passion and expertise.