
Changes to legislation: Debtors (Scotland) Act 1987, SCHEDULE 7 is up to date with all changes known to be in force on or before 11 April 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

SCHEDULES

SCHEDULE 7

Section 108(2).

TRANSITIONAL PROVISIONS

- 1 Notwithstanding the repeal by this Act of subsection (4) of section 36 of the Sheriff Courts (Scotland) Act 1971—
 - (a) any direction made under that subsection which is in force immediately before the commencement of that repeal shall continue in force; and
 - (b) any summary cause action for payment which is pending immediately before such commencement shall proceed and be disposed of, as if this Act had not been passed.
- 2 The sheriff may refuse to make a time to pay order if, on an objection being duly made in pursuance of section 6(6)(a) of this Act, he is satisfied that a direction has been made under section 36(4) of the said Act of 1971 whereby the debt concerned was payable by instalments, but the right to pay by instalments has ceased by reason of failure to pay an instalment.
- 3 Without prejudice to paragraphs 4 to 6 of this Schedule, a warrant issued before the commencement of Part VI of this Act, for the enforcement by diligence of an obligation to pay money, contained in an extract of a decree of the Court of Session or the sheriff court or of a document which has been registered in the Books of Council and Session or in sheriff court books shall be treated as if it were a warrant contained in such a decree granted after the commencement of that Part.
- 4 **F1**

Textual Amendments

- F1** Sch. 7 para. 4 repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, Sch. 3 Pt. 1 para. 17(18) (with s. 63)

- 5 Nothing in this Act shall affect an arrestment of earnings in the hands of an employer which has been executed before the commencement of Part III of this Act nor preclude the bringing of an action of furthcoming in pursuance of such an arrestment or the granting of a decree in any such action.
- 6 Where an arrestment of a debtor's earnings in the hands of an employer which has been executed before the commencement of Part III of this Act has effect in relation to earnings payable on the first pay-day occurring after such commencement, the execution of an earnings arrestment or a current maintenance arrestment against earnings payable to the debtor by the employer shall not be competent until after that pay-day.
- 7 (1) Subject to sub-paragraph (2) below, a summary warrant granted before the commencement of Schedules 4 and 5 to this Act under or by virtue of any of the enactments to which this paragraph applies shall be deemed to authorise only the following diligences—

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- (a) ^{F2}
 - (b) an earnings arrestment; and
 - (c) an arrestment other than an arrestment of the debtor's earnings in the hands of his employer.
- (2) If at the commencement of those Schedules diligence executed in pursuance of a warrant referred to in sub-paragraph (1) above is in effect, that diligence shall proceed as if this Act had not been passed.
- (3) This paragraph applies to the following enactments—
- (a) section 247 of the ^{M1}Local Government (Scotland) Act 1947;
 - (b) section 63 of the ^{M2}Taxes Management Act 1970;
 - (c) section 33 of the ^{M3}Finance Act 1972;
 - (d) paragraph 16(2) of Schedule 7 to the Finance Act 1972;
 - (e) paragraph 3 of Schedule 1 to the ^{M4}Car Tax Act 1983;
 - (f) paragraph 6 of Schedule 7 to the ^{M5}Value Added Tax Act 1983.

Textual Amendments

F2 Sch. 7 para. 7(1)(a) repealed (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002](#) (asp 17), s. 61, [Sch. 3 Pt. 1 para. 17\(18\)](#) (with s. 63)

Marginal Citations

M1 1947 c. 43.
M2 1970 c. 9.
M3 1972 c. 41.
M4 1983 c. 53.
M5 1983 c. 55.

- 8 (1) Where before the commencement of paragraphs 21 and 23 of Schedule 6 to this Act—
- (a) a warrant has been granted under any of the enactments to which this paragraph applies; and
 - (b) no diligence has been executed in pursuance of the warrant, the warrant shall cease to have effect.
- (2) Where before the commencement of the said paragraphs 21 and 23—
- (a) a warrant has been granted under any of the enactments to which this paragraph applies; and
 - (b) diligence has been executed in pursuance of the warrant, the diligence shall proceed as if this Act had not been passed.
- (3) This paragraph applies to the following enactments—
- (a) section 253 of the ^{M6}Customs and Excise Act 1952;
 - (b) paragraph 10 of Schedule 2 to the ^{M7}Betting and Gaming Duties Act 1972;
 - (c) section 117 of the ^{M8}Customs and Excise Management Act 1979;
 - (d) section 29 of the ^{M9}Betting and Gaming Duties Act 1981.

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- M6** 1952 c. 44.
- M7** 1972 c. 25.
- M8** 1979 c. 2.
- M9** 1981 c. 63.

- 9 (1) The provisions of this Act relating to the liability for the expenses of a diligence shall not apply in relation to a diligence to which this paragraph applies.
- (2) Section 93(1) or (2) of this Act shall not prevent a creditor taking proceedings in court to recover any expenses of a diligence to which this paragraph applies which are chargeable against the debtor.
- (3) Notwithstanding section 95 of this Act, a diligence to which this paragraph applies shall cease to have effect on payment or tender of the sum due under the decree or other document.
- (4) This paragraph applies to the following diligences—
- (a) ^{F3}.....
 - (b) an arrestment and action of furthcoming or sale;
in effect at the commencement of sections 93 and 95 of this Act.

Textual Amendments

- F3** Sch. 7 para. 9(4)(a) repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, Sch. 3 Pt. 1 para. 17(18) (with s. 63)

- 10 Until the commencement of the repeal of the ^{M10}Supplementary Benefits Act 1976 by Schedule 11 to the ^{M11}Social Security Act 1986 the said Act of 1976 shall have effect as if there were inserted after section 18 of that Act the new section set out in section 68 of this Act with the following modifications—
- (a) for “25A” there shall be substituted “18A”; and
 - (b) for references to income support there shall be substituted references to supplementary benefit.

Marginal Citations

- M10** 1976 c. 71.
- M11** 1986 c. 50.

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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\(7\)\(a\)\(v\)](#)