



# Debtors (Scotland) Act 1987

## 1987 CHAPTER 18

### PART III

#### DILIGENCE AGAINST EARNINGS

##### *Current maintenance arrestments*

#### 54 Current maintenance arrestment to be preceded by default.

- (1) Subject to subsections (2) and (3) below, a current maintenance arrestment schedule may be served in pursuance of a maintenance order which is subsisting at the date of such service only if—
- (a) the creditor has intimated to the debtor in the manner prescribed by Act of Sederunt—
    - (i) in the case of an order mentioned in paragraph (a) <sup>F1</sup>... or (b) of the definition of “maintenance order” in section 106 of this Act, the making of the order;
    - (ii) in the case of an order mentioned in paragraph (c), (e), (f), (g) <sup>F2</sup>... [<sup>F3</sup>, (h) or (k)] thereof, the registration mentioned in the paragraph concerned;
    - (iii) in the case of an order mentioned in paragraph (d) thereof, the confirmation of the order mentioned in that paragraph;
  - (b) at least 4 weeks have elapsed since the date of intimation under paragraph (a) above; and
  - (c) except where section 56 of this Act applies, at the time when it is proposed to serve the schedule, a sum not less than [<sup>F4</sup>one instalment] of maintenance remains unpaid.
- (2) Subsection (1) above shall not apply where—
- (a) the maintenance order is one that has been registered in Scotland as mentioned in paragraph (c), (e), (f) [<sup>F5</sup>, (g) <sup>F6</sup> [<sup>F7</sup>... or (k)]] of the said definition; and
  - (b) a certificate of arrears (within the meaning of section 21 of the <sup>M1</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972) was produced to the court in

---

**Changes to legislation:** *Debtors (Scotland) Act 1987, Section 54 is up to date with all changes known to be in force on or before 27 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*

---

Scotland which registered the order to the effect that at the time at which the certificate was issued the debtor was in arrears in his payment of instalments under the order.

- (3) Where a current maintenance arrestment which was validly executed has ceased to have effect otherwise than by virtue of its recall under section 55(2) of this Act, the creditor may within 3 months after the date when the arrestment ceased to have effect execute another current maintenance arrestment without complying with subsection (1) above.

[<sup>F8</sup>(4) In subsections (1) and (2), “order” includes decision, settlement and instrument.

<sup>F9</sup>(5) . . . . .]

#### Textual Amendments

- F1** Words in s. 54(1)(a)(i) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 16(2)(a)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 54(1)(a)(ii) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 16(2)(b)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 54(1)(a)(ii) substituted (1.8.2014 as notified in the Edinburgh Gazette dated 27.6.2014 (Issue 27425)) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012](#) (S.S.I. 2012/301), reg. 1(b), **sch. para. 1(2)(a)**
- F4** Words in s. 54(1)(c) substituted (5.4.1993) by [Child Support Act 1991](#) (c. 48, SIF 20), s. 58(13), **Sch. 5 para. 8(4)** (with s. 9(2)); [S.I. 1992/2644](#), **art.2**.
- F5** Words in s. 54(2)(a) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011](#) (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 11(2)(c)**
- F6** Words in s. 54(2)(a) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 16(2)(c)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 54(2)(a) substituted (1.8.2014 as notified in the Edinburgh Gazette dated 27.6.2014 (Issue 27425)) by [The International Recovery of Maintenance \(Hague Convention 2007\) \(Scotland\) Regulations 2012](#) (S.S.I. 2012/301), reg. 1(b), **sch. para. 1(2)(b)**
- F8** S. 54(4)(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011](#) (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 11(2)(d)**
- F9** S. 54(5) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 16(2)(d)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M1** [1972 c.18](#)

**Changes to legislation:**

Debtors (Scotland) Act 1987, Section 54 is up to date with all changes known to be in force on or before 27 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.

[View outstanding changes](#)

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