



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART III

DILIGENCE AGAINST EARNINGS

Current maintenance arrestments

55 Review and termination of current maintenance arrestment.

- (1) If the sheriff is satisfied, on an application by the debtor or the person on whom the current maintenance arrestment schedule was served, that a current maintenance arrestment is invalid or has ceased to have effect, he shall make an order declaring that to be the case, and may make such consequential order as appears to him to be necessary in the circumstances.
- (2) If the sheriff is satisfied, on an application by the debtor, that the debtor is unlikely to default again in paying maintenance, he may make an order recalling a current maintenance arrestment.
- (3) The sheriff clerk shall intimate any order made under subsection (1) or (2) above to the debtor, the creditor and the person on whom the current maintenance arrestment schedule was served.
- (4) An order under subsection (1) above declaring that an arrestment is invalid or has ceased to have effect or under subsection (2) above shall not be subject to appeal.
- (5) The sheriff, on an application by the debtor, the creditor or the employer, may make an order determining any dispute as to the operation of a current maintenance arrestment.
- (6) Without prejudice to section 57(5) of this Act, the sheriff, when making an order under subsection (5) above, may order—
 - (a) the reimbursement of any payment made in the operation of the arrestment which ought not to have been made;
 - (b) the payment of any sum which ought to have been paid in the operation of the arrestment but which has not been paid.

Changes to legislation: Debtors (Scotland) Act 1987, Section 55 is up to date with all changes known to be in force on or before 26 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

- (7) An order under subsection (6) above shall require the person against whom it is made to pay interest on the sum to be paid by him under the order at the specified rate, and such interest shall be payable as from such date as the sheriff shall specify in the order.
- (8) A current maintenance arrestment shall cease to have effect—
- (a) on the coming into effect of an order or decree which varies, supersedes or recalls a maintenance order which is being enforced by the arrestment;
 - (b) on an obligation to pay maintenance under a maintenance order being so enforced ceasing or ceasing to be enforceable in Scotland.
- (9) In the case of an order mentioned in paragraph (c), (e), (f) ^{F1}, (g) ^{F2F3}... or (k)] of the definition of “maintenance order” in section 106 of this Act, the reference in subsection (8)(a) above to the coming into effect of an order or decree shall be construed as a reference to the registration of the order in Scotland.
- ^{F4}(10) In subsections (8)(a) and (9), “order” includes decision, settlement and instrument.]

Textual Amendments

- F1** Words in s. 55(9) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 11(3)(a)**
- F2** Words in s. 55(9) 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(3)**
- F3** Words in s. 55(9) 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(3)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 55(10) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 11(3)(b)**

Changes to legislation:

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