



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART III

DILIGENCE AGAINST EARNINGS

Conjoined arrestment orders

66 Recall and variation of conjoined arrestment order.

- (1) The sheriff shall make an order recalling a conjoined arrestment order—
- (a) on an application by any of the persons mentioned in subsection (2) below, if he is satisfied—
 - (i) that the conjoined arrestment order is invalid;
 - (ii) that all the ordinary debts being enforced by the order have been paid or otherwise extinguished or have ceased to be enforceable by diligence and that all the obligations to pay current maintenance being so enforced have ceased or have ceased to be enforceable by diligence; or
 - (iii) that the debtor's estate has been sequestrated; or
 - (b) on an application for recall of the order by all the creditors whose debts are being enforced by the order.
- (2) The persons referred to in subsection (1)(a) above are—
- (a) the debtor;
 - (b) any creditor whose debt is being enforced by the order;
 - (c) the person on whom a copy of the order or an order varying the order was served under section 60(7) or 62(6) of this Act;
 - (d) the sheriff clerk;
 - (e) if the debtor's estate has been sequestrated, the interim trustee appointed under section [F155 of the Bankruptcy (Scotland) Act 2016 or the] trustee in the sequestration.

Changes to legislation: Debtors (Scotland) Act 1987, Section 66 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

- (3) Where the sheriff recalls a conjoined arrestment order under subsection (1) above, he may make such consequential order as appears to him to be necessary in the circumstances.
- (4) Where—
- (a) any ordinary debt being enforced by a conjoined arrestment order is paid or otherwise extinguished or ceases to be enforceable by diligence; or
 - (b) current maintenance is being so enforced and—
 - (i) an order or decree comes into effect which varies, supersedes or recalls the maintenance order which is being enforced; or
 - (ii) the obligation to pay maintenance has ceased or has ceased to be enforceable in Scotland,
 the sheriff, on an application by the debtor, any creditor whose debt is being enforced by the conjoined arrestment order, the employer or the sheriff clerk, may make an order varying the conjoined arrestment order appropriately.
- (5) In the case of an order mentioned in paragraph (c), (e), (f) [^{F2}, (g)[^{F3F4} ...] or (k)] of the definition of “maintenance order” in section 106 of this Act, the reference in subsection (4)(b)(i) above to the coming into effect of an order shall be construed as a reference to the registration of the order in Scotland.
- (6) The sheriff may vary a conjoined arrestment order to give effect to a request by a creditor whose debt is being enforced by the order that it should cease to be so enforced.
- (7) The sheriff clerk shall as soon as is reasonably practicable serve a copy of any order under subsection (1), (3), (4) or (6) above on the debtor, the employer (or, where he is not the employer, the person mentioned in subsection (2)(c) above), any creditor whose debt is being enforced by the conjoined arrestment order and, if the conjoined arrestment order has been recalled on the ground of the sequestration of the debtor’s estate, the interim trustee or ^{F5}... trustee in the sequestration, if known to the sheriff clerk.
- (8) Subject to section 103(6) of this Act, an order under subsection (3) above shall not come into effect until a copy of the order has been served on the employer under subsection (7) above.
- (9) An order under subsection (1) above shall not come into effect until a copy of the order has been served on the employer under subsection (7) above and shall not be subject to appeal.
- (10) An order under subsection (4) or (6) above shall come into effect 7 days after a copy of the order has been served on the employer under subsection (7) above.

[^{F6}(11) In subsections (4)(b) and (5), “order” includes decision, settlement and instrument.]

Textual Amendments

- F1** Words in s. 66(2)(e) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 11\(4\)\(a\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F2** Words in s. 66(5) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), [Sch. 7 para. 11\(4\)\(a\)](#)

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- F3** Words in s. 66(5) 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(4)**
- F4** Words in s. 66(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(4)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 66(7) omitted (30.11.2016) by virtue of Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 11(4)(b)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F6** S. 66(11) inserted (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 11(4)(b)**

Modifications etc. (not altering text)

- C1** S. 66(2)(b)(6) modified (1.4.2008) by The Enforcement of Fines (Diligence) (Scotland) Regulations 2008 (S.S.I. 2008/104), regs. 1(1), **2(b)(iv)**

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