
Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Cross Heading: Liability for losses and expenses. (See end of Document for details)

SCHEDULE 4
MODIFICATIONS OF ENACTMENTS RELATING TO
ADMIRALTY ACTIONS AND THE ARRESTMENT OF SHIPS

Liability for losses and expenses

8 After section 47A of the 1956 Act (as inserted by paragraph 6 above), insert—

“47B Expenses

- (1) Subject to subsection (3) below, a pursuer shall be entitled to such expenses as are incurred—
 - (a) in obtaining warrant for the arrest of a ship, cargo or other maritime property on the dependence of an action; and
 - (b) in executing the arrestment.
- (2) Subject to subsection (4) below, a defender shall be entitled, where—
 - (a) warrant for the arrest of a ship, cargo or other maritime property on the dependence of an action is granted; and
 - (b) the court is satisfied that the pursuer was acting unreasonably in applying for it,to such expenses as are incurred in opposing that warrant.
- (3) The court may modify or refuse such expenses as are mentioned in subsection (1) above if it is satisfied that—
 - (a) the pursuer was acting unreasonably in applying for the warrant; or
 - (b) such modification or refusal is reasonable in all the circumstances and having regard to the outcome of the action.
- (4) The court may modify or refuse such expenses as are mentioned in subsection (2) above if it is satisfied as to the matter mentioned in subsection (3)(b) above.
- (5) Subject to subsections (1) to (4) above, the court may make such findings as it thinks fit in relation to such expenses as are mentioned in subsections (1) and (2) above.
- (6) Expenses incurred as mentioned in subsections (1)(a) and (2) above shall be expenses of process.
- (7) Subsections (1) to (4) above are without prejudice to any enactment or rule of law as to the recovery of expenses chargeable against a debtor as are incurred in executing an arrestment on the dependence of an action.
- (8) Where warrant is granted for the arrest of a ship in rem in proceedings to which section 47(3)(b) of this Act applies, the court may make such findings as it thinks fit in relation to expenses incurred—
 - (a) in obtaining the warrant and, as the case may be, executing the arrestment;
 - (b) in opposing the application for the warrant.
- (9) For the avoidance of doubt, expenses incurred in applying for and executing the arrest of a ship, cargo or other maritime property in rem in respect of

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a conclusion appropriate for the making good of a maritime lien shall be expenses of process.”.

Commencement Information

II [Sch. 4 para. 8](#) in force at 1.7.2010 by [S.S.I. 2010/249](#), [art. 2](#) (with [art. 3](#))

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