

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

F1 SCHEDULE 1

Textual Amendments

- F1** Sch. 1 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F2 SCHEDULE 2

(introduced by section 50(7))

THE SCOTTISH CIVIL ENFORCEMENT COMMISSION

Textual Amendments

- F2** Sch. 2 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 4 Pt. 2**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

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PROSPECTIVE

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PROSPECTIVE

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PROSPECTIVE

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SCHEDULE 3

(introduced by section 196(1))

EXPENSES OF MONEY ATTACHMENT

Expenses chargeable against the debtor

- 1 There is to be chargeable against the debtor any expenses incurred—
- (a) subject to section 90(7) of the 1987 Act, in serving a charge;
 - (b) in executing a money attachment;
 - (c) in relation to a valuation arranged under section 180(1) of this Act (including the fees and outlays of the person who carried out the valuation);
 - (d) in making a report under section 182(1) of this Act but not in applying for an extension of time for the making of such a report;
 - (e) in applying for a payment order under section 183(2) of this Act;
 - (f) in granting a receipt and making a report to the sheriff under section 188(4) of this Act;
 - (g) in giving a statement under section 189(1) of this Act;
 - (h) in removing money from the place at which it was found;
 - (i) in opening shut and lockfast places for that purpose;
 - (j) by a solicitor in instructing [^{F3}an officer of court] to take any of the steps specified in this paragraph.

Textual Amendments

- F3** Words in [Sch. 3 para. 1\(j\)](#) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 25\(b\)](#); [S.S.I. 2011/30](#), art. 3(1)(3), [Sch. 1](#)

- 2 Expenses chargeable against the debtor by virtue of paragraph 1(e) above must be calculated, whether or not the application is opposed by the debtor, as if it were unopposed.

Circumstances where no expenses are due to or by either party

- 3 Subject to paragraph 4 below, the debtor shall not be liable to the creditor nor the creditor to the debtor for any expenses incurred by the other party in connection with—
- (a) an application under section 181(1), 185(1) or 186 of this Act;
 - (b) any objections to such an application;
 - (c) an opposition, under section 183(6) of this Act, to an application for a payment order;
 - (d) a hearing held by virtue of section 183(8), 186(6) or 190(7) of this Act.
- 4 If—
- (a) an application mentioned in paragraph 3(a) above is frivolous;
 - (b) such an application is opposed on frivolous grounds;
 - (c) an application for a payment order is opposed on frivolous grounds; or
 - (d) a party requires, on frivolous grounds, a hearing mentioned in paragraph 3(d) above to be held,

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the sheriff may award a sum of expenses, not exceeding such amount as may be prescribed by the Scottish Ministers by regulations, against the party acting frivolously in favour of the other party.

Commencement Information

- I1** Sch. 3 para. 4 wholly in force at 23.11.2009; Sch. 3 para. 4 not in force at Royal Assent see s. 227; Sch. 3 para. 4 in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(4), Sch. 3 (with arts. 4-6, 10); Sch. 3 para. 4 in force at 23.11.2009 in so far as not already in force by S.S.I. 2009/369, art. 3 (with transitional modifications in art. 4)

- 5 Paragraphs 3 and 4 above do not apply to expenses incurred in connection with an appeal under section 194(1).

SCHEDULE 4

(introduced by section 213)

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

Definition of “maritime lien”

- 1 In section 48 of the Administration of Justice Act 1956 (c. 46) (in this Act, the “1956 Act”)—
- the existing words become subsection (1);
 - paragraph (d) is repealed; and
 - at the end insert—

“(2) In this Act and in any other enactment (including an Act of the Scottish Parliament and any enactment comprised in subordinate legislation under such an Act), “maritime lien” means a hypothec over a ship, cargo or other maritime property.”.

Commencement Information

- I2** Sch. 4 para. 1 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

- 2 In sections 45(5) and 47(3)(b), (4)(b) and (5) of the 1956 Act, before the word “lien” in each place where it occurs, insert the word “ maritime ”.

Commencement Information

- I3** Sch. 4 para. 2 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

- 3 In section 47(2)(r) of the 1956 Act, for “or hypothecation of” substitute “ , hypothecation of or existence of any other charge on ”.

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Commencement Information

I4 Sch. 4 para. 3 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

The term “admiralty action”

- 4 In section 47 of the 1956 Act—
- (a) in subsection (2)(h), after “bond” insert “ or contract of respondentia ”;
 - (b) after subsection (2), insert—
 - “(2A) An action having a conclusion appropriate for the enforcement of a claim to which subsection (2) above applies shall be known as an “admiralty action”.”;
 - (c) in subsection (3), for “the last preceding subsection” substitute “ subsection (2) above ”.

Commencement Information

I5 Sch. 4 para. 4 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

- 5 (1) In paragraph 7 of schedule 5 to the Civil Jurisdiction and Judgements Act 1982 (c. 27), for “Admiralty cause” substitute “ admiralty action ”.
- (2) In paragraph 6 of schedule 9 to that Act, for “causes” substitute “ actions ”.

Commencement Information

I6 Sch. 4 para. 5 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

Arrestment in rem granted by the sheriff

- 6 After section 47 of the 1956 Act, insert—
- “47A Execution of warrant to arrest in rem and of order for sale**
- (1) A warrant for the arrestment in rem of a ship, cargo or other maritime property granted by the sheriff may be executed—
 - (a) within the sheriffdom in which the warrant was granted; or
 - (b) where the ship, cargo or other maritime property was situated within that sheriffdom when the warrant was granted, anywhere in Scotland.
 - (2) For the avoidance of doubt, where a warrant for arrestment in rem granted by the sheriff has been executed, an order for the sale of the arrested ship, cargo or other maritime property may be made notwithstanding that it is not situated within the sheriffdom when the order is made.”.

Commencement Information

I7 Sch. 4 para. 6 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

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Arrestment on the dependence

- 7 (1) Section 47 of the 1956 Act is amended as follows.
- (2) In subsection (1)—
- (a) after “arrest”, where it second occurs, insert “ a ship or other maritime property which is not cargo ”;
 - (b) after “unless”, where it second occurs, insert “ at the time when the arrestment is executed ”;
 - (c) in paragraph (a), after “concerned” insert “ and the defender against whom that conclusion is directed owns at least one share in it or is the demise charterer of it ”; and
 - (d) in paragraph (b), the words “against whom that conclusion is directed” are repealed.
- (3) After subsection (1), insert—
- “(1A) Where a warrant to arrest on the dependence referred to in subsection (1) above (an “initial arrestment”) has been executed, then, subject to subsection (1B) below, no further warrant may be granted to arrest on the dependence—
- (a) the subjects of the initial arrestment; or
 - (b) while the initial arrestment continues to have effect, any other ship in which the defender owns at least one share,
- in respect of the claim to which the initial arrestment relates.
- (1B) A further warrant to arrest on the dependence may be granted if—
- (a) the further arrestment complies with the requirements of subsection (1) above; and
 - (b) cause is shown for granting the further warrant.”.

(4) In subsection (3)—

 - (a) in paragraph (a), after “ship” insert “ or of any share in it ”; and
 - (b) after “ship”, where it last occurs, insert “ or, as the case may be, any share in a ship other than in the ship, ”.

Commencement Information

I8 Sch. 4 para. 7 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

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.

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

Commencement Information

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

Factors affecting arrestments

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

“47C Competence of arresting cargo

- (1) It is not competent to execute an arrestment of cargo unless the cargo is on board a ship when the arrestment is executed.

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- (2) For the avoidance of doubt, it is competent to execute an arrestment of cargo where it is in the possession of the defender or of a person acting on behalf of the defender.

47D Arrestment of cargo: restriction on movement of ship

Where cargo is arrested, the ship is treated as if arrested until the cargo is unloaded.”.

Commencement Information

I10 Sch. 4 para. 9 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

Cargo on board a ship exempt from attachment

- 10 In section 11 of the 2002 Act (articles exempt from attachment), at the end insert—
- “(3) It is not competent to attach cargo which it is competent to arrest by virtue of section 47C of the Administration of Justice Act 1956 (c. 46) (competence of arresting cargo).”.

Commencement Information

I11 Sch. 4 para. 10 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

Location of a ship when arrestment executed

- 11 In section 47 of the 1956 Act—
- (a) after subsection (5), insert—
- “(5A) Subject to subsection (6) below, it is competent to execute an arrestment of a ship, cargo or other maritime property regardless of whether the ship or other maritime property is in non-tidal or tidal waters or on land.
- (5B) In subsection (5A) above, “tidal waters” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides.”; and
- (b) in subsection (6), for the words from “Nothing” to “of”, where it second occurs, substitute, “ It is not competent to execute an arrestment of a ship or cargo on board ”.

Commencement Information

I12 Sch. 4 para. 11 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

Demise charters

- 12 After section 47D of the 1956 Act (as inserted by paragraph 9 above) insert—

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“Special provision in relation to charters by demise

47E Sale of ship arrested on the dependence of action against demise charterer

- (1) This section applies where—
 - (a) a ship is arrested on the dependence of an admiralty action against the demise charterer of it; and
 - (b) the pursuer obtains decree for payment for all or part of a principal sum concluded for in the action.
- (2) Where the owner or demise charterer of the ship—
 - (a) pays the sum due under the decree to—
 - (i) the pursuer; or
 - (ii) any person who has authority to receive payment on behalf of the pursuer; or
 - (b) tenders that sum to any of those persons and the tender is not accepted within a reasonable time,
the arrestment ceases to have effect.
- (3) The court may, on the application of the pursuer, make an order for the sale of the ship.
- (4) Subject to sections 47F and 47G below, the court shall rank any claims made on the proceeds.
- (5) A ship sold under subsection (3) above vests in the purchaser free of any security or other encumbrance.
- (6) The Court of Session may, by Act of Sederunt, make provision relating to proceedings under this section.

47F Ranking of arrestments on sale of ship chartered by demise

In any ranking process relating to the proceeds of sale of a ship (or any share in a ship), an arrestment of the ship (or share) executed before the sale by a creditor of the owner of the ship (or share) shall rank in preference over any arrestment of the ship executed on the dependence of an admiralty action against the demise charterer of the ship.

47G Ranking of arresting creditor of demise charterer in sequestration or winding up of owner

- (1) This section applies where—
 - (a) a ship is arrested on the dependence of an admiralty action against the demise charterer of it; and
 - (b) at any time after the arrestment is executed—
 - (i) the owner of the ship's estate is sequestrated; or
 - (ii) where the owner is a company, it is wound up.

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- (2) The creditor who executed the arrestment is entitled to rank on the proceeds of any sale of the ship resulting from the sequestration or, as the case may be, winding up.
- (3) Section 37(4) and (5) of the Bankruptcy (Scotland) Act 1985 (c. 66) (effect of sequestration on arrestment or attachment) and section 185(1)(a) and (2) (in so far as applying and modifying section 37(4) and (5)) of the Insolvency Act 1986 (c. 45) (application of sequestration provisions relating to diligence on winding up) shall apply to such an arrestment as they apply to any other arrestment.

47H Arrestment to found jurisdiction in action against demise charterer

Where the defender in an admiralty action is the demise charterer of the ship with which the action is concerned, the court may, on the application of the pursuer, grant warrant to arrest the ship to found jurisdiction.”.

Commencement Information

I13 Sch. 4 para. 12 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

- 13 In section 6(c) of the Sheriff Courts (Scotland) Act 1907 (c. 51) (competence of arresting a ship to found jurisdiction in sheriff court), after “owner”, where it second occurs, insert “ or demise charterer ”.

Commencement Information

I14 Sch. 4 para. 13 in force at 1.7.2010 by S.S.I. 2010/249, art. 2 (with art. 3)

SCHEDULE 5

(introduced by section 226)

MINOR AND CONSEQUENTIAL AMENDMENTS

The Companies Clauses Consolidation (Scotland) Act 1845 (c. 17)

- 1 In section 114 of the Companies Clauses Consolidation (Scotland) Act 1845 (summary remedy against parties failing to account), after “attachment” insert “ or money attachment ”.

The Harbours, Docks and Piers Clauses Act 1847 (c. 27)

- 2 In section 46 of the Harbours, Docks and Piers Clauses Act 1847 (power of justice or sheriff to settle disputes over costs of diligence), after “attachment” insert “ or money attachment ”.

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

PROSPECTIVE

The Titles to Land Consolidation (Scotland) Act 1868 (c. 101)

- 3 In section 3 of the Titles to Land Consolidation (Scotland) Act 1868 (definitions), in the definition of the “deed” and “conveyance”—
- (a) after “adjudged” insert “ in implement ”; and
 - (b) after “adjudication”, where it third occurs, insert “ in implement ”.

The Writs Execution (Scotland) Act 1877 (c. 40)

- 4 In section 3(a) of the Writs Execution (Scotland) Act 1877 (warrant in extract writ to authorise diligence)—
- (a) after “arrestment” insert “ , a land attachment, a residual attachment, a money attachment ”; and
 - (b) after “executing the” insert “ land attachment, residual attachment, money attachment or ”.

Commencement Information

- I15** Sch. 5 para. 4 partly in force; Sch. 5 para. 4 not in force at Royal Assent see s. 227; Sch. 5 para. 4 in force for certain purposes at 23.11.2009 by S.S.I. 2009/369, art. 3(2)(3), Sch. 1 para. 3 (with transitional modifications in art. 4)

The Judicial Factors (Scotland) Act 1889 (c. 39)

- 5 In section 11A of the Judicial Factors (Scotland) Act (application for judicial factor on estate of deceased person)—
- (a) in subsection (1)—
 - (i) for “petition to the Court of Session or” substitute “ application ”; and
 - (ii) for “petition”, where it second occurs, substitute “ application ”; and
 - (b) in subsection (2), for “petition” substitute “ application ”.

The Sheriff Courts (Scotland) Extracts Act 1892 (c. 17)

- 6 (1) The Sheriff Courts (Scotland) Extracts Act 1892 is amended as follows.
- (2) In section 7(1)(a) (warrant in extract decree to authorise diligence)—
- (a) after “arrestment” insert “ , a land attachment, a residual attachment, a money attachment ”; and
 - (b) after “executing the” insert “ land attachment, residual attachment, money attachment or ”.
- (3) In section 7(4) (warrant in extract decree of removing), for the words “forty-eight hours” in both places where they occur substitute “ 14 days ”.

^{F4}(4)

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Textual Amendments

- F4** Sch. 5 para. 6(4) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

Commencement Information

- I16** Sch. 5 para. 6 not in force at Royal Assent see s. 227; Sch. 5 para. 6 in force for certain purposes at 23.11.2009 by [S.S.I. 2009/369](#), [art. 3\(2\)\(3\)](#), [Sch. 1 para. 4](#) (with transitional modifications in [art. 4](#))
- I17** [Sch. 5 para. 6\(3\)](#) in force at 4.4.2011 by [S.S.I. 2011/179](#), [art. 3\(b\)](#) (with [art. 4](#))

The Execution of Diligence (Scotland) Act 1926 (c. 16)

- 7 (1) The Execution of Diligence (Scotland) Act 1926 is amended as follows.
- (2) In section 2 (execution by registered letter)—
- ^{F5}(a)
- (b) in subsection (2)(b)—
- ^{F6}(i)
- ^{F6}(ii)
- (iii) for “law agent enrolled in such sheriffdom” substitute “solicitor”;
- (c) in subsection (2)(c), [^{F7}for “law agent” substitute “solicitor”]; and
- (d) in subsection (2)(g), for “rule 111” substitute “rule 6.1”.
- (3) In section 3 (authorisation by sheriff to do diligence)—
- ^{F8}(a)
- (b) for “law agent” substitute “solicitor”.
- ^{F9}(4)

Textual Amendments

- F5** Sch. 5 para. 7(2)(a) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F6** Sch. 5 para. 7(2)(b)(i)(ii) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F7** Words in Sch. 5 para. 7(2)(c) substituted (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 para. 31](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F8** Sch. 5 para. 7(3)(a) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F9** Sch. 5 para. 7(4) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); S.S.I. 2011/30, art. 3(1)(3), Sch. 1

Commencement Information

- I18** Sch. 5 para. 7 not in force at Royal Assent see s. 227; Sch. 5 para. 7(2)(b)(iii)(d)(3)(b) in force and Sch. 5 para. 7(1)(2)(c) in force for certain purposes at 22.4.2009 by [S.S.I. 2009/67](#), [art. 3\(2\)\(3\)](#), [Sch. 1 para. 2](#) (with transitional modifications and savings in [arts. 4-6](#))
- I19** Sch. 5 para. 7(2)(c) in force at 31.1.2011 in so far as not already in force by [S.S.I. 2011/31](#), [art. 3\(h\)](#)

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The Local Government (Scotland) Act 1947 (c. 43)

- 8 (1) The Local Government (Scotland) Act 1947 is amended as follows.
- (2) In section 247(3) (diligences which can be used to recover rates), after paragraph (a) insert—
 - “(aa) a money attachment;”.
- (3) In section 247A(1) (sheriff officer's fees and outlays), after “attachment)” insert “ and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment) ”.

The Taxes Management Act 1970 (c. 9)

- 9 (1) The Taxes Management Act 1970 is amended as follows.
- (2) In section 63(2) (diligences which can be used to recover tax), after paragraph (a) insert—
 - “(aa) a money attachment;”.
- (3) In section 63A(1) (sheriff officer's fees and outlays), after “attachment)” insert “ and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment) ”.

The Sheriff Courts (Scotland) Act 1971 (c. 58)

- 10 In section 32(1) of the Sheriff Courts (Scotland) Act 1971 (power of Court of Session to regulate sheriff court civil procedure), in paragraph (l), for the words “an attachment” substitute “ an interim attachment, an attachment, a money attachment, a land attachment or a residual attachment ”.

Commencement Information

I20 Sch. 5 para. 10 partly in force; Sch. 5 para. 10 not in force at Royal Assent see s. 227; Sch. 5 para. 10 in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(2), Sch. 1 (subject to art. 3(3) and with arts. 4-6, 10); Sch. 5 para. 10 in force for certain further purposes at 23.11.2009 by S.S.I. 2009/369, art. 3(2)(3), Sch. 1 para. 7 (with transitional modifications in art. 4)

PROSPECTIVE

The Animal Health Act 1981 (c. 22)

F10 11

Textual Amendments

F10 Sch. 5 para. 11 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

Changes to legislation: *Bankruptcy and Diligence etc. (Scotland) Act 2007* is up to date with all changes known to be in force on or before 25 February 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](#)

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

- 12 In section 27 of the Civil Jurisdiction and Judgments Act 1982 (power of Court of Session to grant provisional and protective measures in respect of proceedings outwith Scotland)—
- (a) in subsection (1), after paragraph (b), insert—
 - “(ba) subject to subsection (2)(c) below, grant a warrant for the interim attachment of corporeal moveable property situated in Scotland;”;
 - (b) in subsection (2)(c), for the words “and (b)” substitute “, (b) and (ba)”.

The Bankruptcy (Scotland) Act 1985 (c. 66)

F11 13

Textual Amendments

F11 Sch. 5 para. 13 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with [ss. 232, 234\(3\), 235, 236](#)); [S.S.I. 2016/294](#), reg. 2

PROSPECTIVE

The Insolvency Act 1986 (c. 45)

- 14 (1) The Insolvency Act 1986 is amended as follows.
- (2) After section 61(1) (which sets out the process by which a receiver may dispose of property subject to both the floating charge and to another security, other encumbrance or diligence) insert—
- “(1B) For the purposes of subsection (1) above, an arrestment is an effectual diligence only where it is executed before the floating charge, by virtue of which the receiver was appointed, attaches to the property comprised in the company's property and undertaking.”.
- (3) In section 185(1)(a) (effect of diligence in the winding up of a company registered in Scotland), after “subsection (6)” insert “, (8A) to (8F) and (10)”.

The Legal Aid (Scotland) Act 1986 (c. 47)

- 15 In Part 2 of Schedule 2 to the Legal Aid (Scotland) Act 1986 (proceedings in which civil legal aid is not available)—
- (a) in paragraph 4, after “(asp 17)” insert “ or Part 8 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) ”; and
 - (b) in paragraph 5, after “(asp 17)” insert “ or Part 8 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) ”.

The Debtors (Scotland) Act 1987 (c. 18)

- 16 (1) The 1987 Act is amended as follows.

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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](#)

- (2) In section 2 (effect of time to pay direction on diligence)—
- (a) in subsection (1)(b), after sub-paragraph (iv) insert—
 - “(v) a money attachment;
 - (vi) a land attachment;
 - (vii) a residual attachment.”;
 - (b) in subsection (2), at beginning insert “ Subject to subsection (2A) below, ”;
 - (c) after that subsection insert—
 - “(2A) Where the arrestment which remains in effect as mentioned in subsection (2) above is an arrestment such as is mentioned in subsection (1) of section 73J of this Act, while the time to pay direction is in effect—
 - (a) it shall not be competent to release funds under subsection (2) of that section; and
 - (b) the period during which the direction is in effect shall be disregarded for the purposes of determining whether the period mentioned in subsection (3) of that section has expired.
 - (2B) While a time to pay direction is in effect an interim attachment shall remain in effect—
 - (a) if it has not been recalled; or
 - (b) to the extent that it has not been restricted under subsection (3) below.”;
 - (d) in subsection (3), after “restrict” insert “ an interim attachment or ”;
 - (e) in subsection (4)—
 - (i) after “If” insert “ an interim attachment or ”; and
 - (ii) after “restriction of the” insert “ interim attachment or ”; and
 - (f) after subsection (5) insert—
 - “(5A) Where—
 - (a) a time to pay direction is recalled or ceases to have effect as mentioned in subsection (5) above; and
 - (b) an arrestment such as is mentioned in section 73J(1) of this Act is in effect,
 the clerk of court or sheriff clerk shall intimate the fact of that recall or cessation to the arrestee.”.
- (3) In section 3 (variation and recall of time to pay direction and arrestment)—
- (a) in subsection (1)(a), after “reasonable” insert “ in all the circumstances ”;
 - (b) in subsection (1)(b)—
 - (i) after “if” insert “ an interim attachment or ”;
 - (ii) after “restrict the” insert “ interim attachment or ”; and
 - (c) in subsection (2), after “If” insert “ an interim attachment or ”.
- (4) In section 5 (time to pay orders)—
- (a) in subsection (5), for paragraph (a) substitute—
 - “(a) articles belonging to the debtor have been attached and notice of an auction given under section 27(4) of the Debt

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

- Arrangement and Attachment (Scotland) Act 2002 (asp 17) but no auction has yet taken place;
- (aa) money owned by the debtor has been attached and removed;”;
- (b) for paragraph (c) and the word “or” immediately preceding it substitute—
- “(c) land owned by the debtor has been attached and an order under section 97(2) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (in this Part, the “2007 Act”) granting warrant for sale of the land has been made but that warrant has not yet been executed; or
- (d) property owned by the debtor has been attached by residual attachment and a satisfaction order under section 136(2) of the 2007 Act has been made but not yet executed;”;
- (c) after subsection (5) insert—
- “(5A) Where, in respect of a debt to which this section applies, an arrestment such as is mentioned in subsection (1) of section 73J of this Act has been executed, the sheriff may make a time to pay order in respect of that debt only if less than 8 weeks of the period mentioned in subsection (3) of that section have expired.”.
- (5) In section 6 (application for time to pay order), in subsection (6), leave out paragraph (b) and the word “and” immediately preceding it and insert—
- “(b) serve on—
- (i) the creditor; and
- (ii) where an arrestment such as is mentioned in section 73J(1) of this Act is in effect, the arrestee,
- a copy of the interim order; and
- (c) serve on the creditor a copy of any order under subsection (4) above.”.
- (6) In section 7 (disposal of application for time to pay order), in subsection (4)(a), for “and the creditor” substitute “, the creditor and, where an arrestment such as is mentioned in section 73J(1) of this Act is in effect, the arrestee ”.
- (7) In section 8 (effect of interim order on diligence)—
- (a) in subsection (1)—
- (i) before paragraph (a) insert—
- “(za) to attach in execution of the decree any articles which have been attached by interim attachment;”;
- (ii) in paragraph (a), for “auction any articles which have been attached” substitute “give, in relation to any articles which have been attached, notice of an auction under section 27(4) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) ”;
- (iii) after paragraph (a) insert—
- “(aa) to execute a money attachment;”;
- (iv) in paragraph (c), at the beginning insert “ subject to subsection (1A) below, ”; and
- (v) for paragraph (d) substitute—

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- prohibiting the taking of any steps other than the serving, under section 133(1) of the 2007 Act, of a schedule of residual attachment;
- (cb) may make an order recalling an interim attachment;”;
- (c) after subsection (2) insert—
- “(2A) While a time to pay order is in effect, it shall not be competent in respect of the debt—
- (a) to make, under section 97(2) of the 2007 Act, an order granting warrant for sale of attached land; or
- (b) to make, under section 136(2) of the 2007 Act, a satisfaction order.”;
- (d) in subsection (3)—
- (i) after “If” insert “ an interim attachment, ” and
- (ii) for “or the recall of” substitute “ , the recall of the interim attachment or ”;
- (e) in subsection (4)—
- (i) at the beginning insert “ Subject to subsection (4A) below, ”; and
- (ii) for “(2)(d) or (e)” substitute “ (2)(cb), (d) or (e) ”;
- (f) after subsection (4) insert—
- “(4A) Where, in relation to an arrestment such as is mentioned in subsection (1) of section 73J of this Act, the sheriff does not exercise the power conferred on him by subsection (2)(e) above to recall that arrestment, he shall make an order—
- (a) prohibiting, while the time to pay order is in effect, the release of funds under subsection (2) of section 73J of this Act; and
- (b) providing that the period during which the time to pay order is in effect shall be disregarded for the purposes of determining whether the period mentioned in subsection (3) of that section has expired.”;
- (g) in subsection (6), for “(2)(d) or (e)” substitute “ (2)(cb), (d) or (e) ”;
- (h) in subsection (7), after paragraph (b) insert “; and
- (c) where any order under subsection (4A) above is made in relation to an arrestment such as is mentioned in section 73J(1) of this Act is in effect, intimate that order to the arrestee.”; and
- (i) in subsection (8)—
- (i) for paragraph (a) substitute—
- “(a) to sell articles which have been attached (other than by virtue of section 20(1) or 22(3) of the Debt Arrangement and Attachment (Scotland) Act (asp 17);”;
- (ii) in paragraph (b), at the beginning insert “ to grant ”.
- (9) In section 10 (variation and recall of time to pay order and arrestment)—
- (a) in subsection (1)(a), after “reasonable” insert “ in all the circumstances ”;
- (b) in subsection (1)(b), after “if” insert “ an interim attachment, ”; and
- (c) in subsection (2), after “If” insert “ an interim attachment, ”.

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

- (10) In section 13 (saving of creditor's rights and remedies), in the full-out words to subsection (2), for “poining”, in any place where it occurs, substitute “ attachment ”.
- (11) In section 87(2)(a) (warrant in extract decree to authorise diligence)—
- (a) after “arrestment” insert “ , a land attachment, a residual attachment, a money attachment ”; and
 - (b) after “executing the” insert “ land attachment, residual attachment, money attachment or ”.
- (12) In section 104 (regulations), after “Regulations” insert “ and orders ”.
- (13) In section 105 (application to Crown)—
- (a) the existing words become subsection (1);
 - (b) after “1947” insert “ and subject to subsection (2) below ”; and
 - (c) at the end insert—

“(2) Section 70B of this Act does not affect Her Majesty in Her private capacity as an employer.”
- (14) In section 106 (interpretation)—
- (a) after the definition of “current maintenance”, insert—

““debt advice and information package” has the meaning given to it in section 47(4) of this Act;”;
 - (b) after the definition of “employer”, insert—

““enactment” includes an Act of the Scottish Parliament and any enactment comprised in subordinate legislation under such an Act;”;

and
 - F12(c)

Textual Amendments

F12 Sch. 5 para. 16(14)(c) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1

Commencement Information

I21 Sch. 5 para. 16 not in force at Royal Assent see s. 227; Sch. 5 para. 16(2)(d)(e)(3)(7)(a)(i)(8)(d)(e)(ii)(g)(i)(9)(10)(12)(13)(14(a)(b) in force and Sch. 5 para. 16(1)(2)(c)(4)(a)(8)(b) in force for certain purposes at 1.4.2008 by [S.S.I. 2008/115](#), [art. 3\(2\)](#), [Sch. 1](#) (subject to [art. 3\(3\)](#) and with [arts. 4-6, 10](#)); Sch. 5 para. 16(1) in force for certain purposes and Sch. 5 para. 16(2)(c)(f)(4)(c)(5)(6)(7)(a)(ii)(iv)(b)(8)(e)(i)(f)(h) in force at 22.4.2009 by [S.S.I. 2009/67](#), [art. 3\(2\)\(3\)](#), [Sch. 1 para. 4](#) (with transitional modifications and savings in [arts. 4-6](#)); Sch. 5 para. 16(1)(2)(a)(4)(a)(8)(a)(11)(a)(b) in force for certain purposes and Sch. 5 para. 16(7)(a)(iii) in force at 23.11.2009 by [S.S.I. 2009/369](#), [art. 3\(2\)\(3\)](#), [Sch. 1 para. 10](#) (with transitional modifications in [art. 4](#))

The Abolition of Domestic Rates etc. (Scotland) Act 1987 (c. 47)

- 17 (1) Schedule 2 to the Abolition of Domestic Rates etc. (Scotland) Act 1987 is amended as follows.

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- (2) In paragraph 7(3) (diligences which can be used to recover community charge), after paragraph (a) insert—
“(aa) a money attachment;”.
- (3) In paragraph 8(1) (sheriff officer's fees and outlays), after “attachment” insert “ and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment) ”.

The Child Support Act 1991 (c. 48)

- 18 In section 38 of the Child Support Act 1991 (enforcement of liability orders by diligence)—
- (a) in subsection (1)—
- (i) after paragraph (a) insert—
“(aa) for the Secretary of State—
- (i) to charge the person to pay the appropriate amount; and
- (ii) to execute, in respect of the person's land, a land attachment;”;
- (ii) for the words from “and”, where it fifth occurs, to the end, substitute—
“(c) for an inhibition.”; and
- (b) for subsection (2) substitute—
“(2) In subsection (1)—
- (a) the “appropriate amount” means the amount in respect of which the order was made, to the extent that it remains unpaid; and
- (b) in paragraph (aa), “land” has the same meaning as in section 82 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).”.

Commencement Information

I22 Sch. 5 para. 18 partly in force; Sch. 5 para. 18 not in force at Royal Assent see s. 227; Sch. 5 para. 18(a)(ii) in force for certain purposes at 22.4.2009 by S.S.I. 2009/67, art. 3(2)(3), Sch. 1 para. 5 (with transitional modifications and savings in arts. 4-6)

The Social Security Administration Act 1992 (c. 5)

- 19 In section 121B of the Social Security Administration Act 1992—
- (a) in subsection (1) (diligences which can be used to recover unpaid contributions), after paragraph (a) insert—
“(aa) a money attachment;”;
- (b) in subsection (4) (sheriff officer's fees and outlays), after “attachment” insert “ and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment) ”.

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

The Local Government Finance Act 1992 (c. 14)

- 20 (1) Schedule 8 to the Local Government Finance Act 1992 is amended as follows.
- (2) In paragraph 2(3) (diligences which can be used to recover council tax etc.), after paragraph (a) insert—
- “(aa) a money attachment;”.
- (3) In paragraph 4(1) (sheriff officer's fees and outlays), after “attachment)” insert “ and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment) ”.

PROSPECTIVE

The Tribunals and Inquiries Act 1992 (c. 53)

F13 21

Textual Amendments

F13 Sch. 5 para. 21 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

The Proceeds of Crime (Scotland) Act 1995 (c. 43)

- 22 In section 32 of the Proceeds of Crime (Scotland) Act (inhibition of property affected by restraint order or by interdict)—
- (a) in subsection (1)—
- (i) for the words “Lord Advocate, the Court of Session” substitute “ prosecutor, the court ”;
- (ii) in paragraph (a), for the words “Lord Advocate” substitute “ prosecutor ”; and
- (iii) in paragraph (b), for the words from “have” to the end substitute “ forthwith be registered by the prosecutor in the Register of Inhibitions. ”; and
- (b) in subsection (5), for the words “Lord Advocate” substitute “ prosecutor ”.

The Criminal Procedure (Scotland) Act 1995 (c. 46)

- 23 In section 221 of the Criminal Procedure (Scotland) Act 1995 (fines: recovery by civil diligence), in subsection (1)(a)—
- (a) for “the execution of an arrestment and the attachment of articles belonging to him” insert—
- “(i) the execution of an arrestment;
- (ii) the attachment of articles belonging to him; and
- (iii) the execution of a money attachment;” and
- (b) after “attachment”, where it second occurs, insert “ or the money attachment ”.

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

The Finance Act 1997 (c. 16)

- 24 In section 52 of the Finance Act 1997—
- (a) in subsection (2) (diligences which can be used to recover certain taxes), after paragraph (a) insert—
“(aa) a money attachment;”, and
 - (b) in subsection (3) (sheriff officer's fees and outlays), after “attachment)” insert “ and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment) ”.

PROSPECTIVE

The Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)

F14 25

Textual Amendments

F14 Sch. 5 para. 25 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

The Water Industry (Scotland) Act 2002 (asp 3)

- 26 (1) Schedule 4 to the Water Industry (Scotland) Act 2002 is amended as follows
- (2) In paragraph 2(3) (diligences which can be used to recover unpaid charges), after sub-paragraph (za) insert—
“(zb) a money attachment;”.
 - (3) In paragraph 4(1), at the beginning insert “ Without prejudice to section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment) and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment), ”.

Commencement Information

I23 Sch. 5 para. 26 partly in force; Sch. 5 para. 26 not in force at Royal Assent see s. 227; Sch. 5 para. 26(1)(3) in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(2), Sch. 1 (subject to art. 3(3) and with arts. 4-6, 10); Sch. 5 para. 26(2) in force and Sch. 5 para. 26(1)(3) in force for certain further purposes at 23.11.2009 by S.S.I. 2009/369, art. 3(2)(3), Sch. 1 para. 16 (with transitional modifications in art. 4)

PROSPECTIVE

The Scottish Public Services Ombudsman Act 2002 (asp 11)

F15 27

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

Textual Amendments

- F15** Sch. 5 para. 27 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PROSPECTIVE

The Freedom of Information (Scotland) Act 2002 (asp 13)

^{F16}28

Textual Amendments

- F16** Sch. 5 para. 28 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

The Proceeds of Crime Act 2002 (c. 29)

- 29 In section 123 of the Proceeds of Crime Act (inhibition of property affected by a restraint order)—
- (a) in subsection (1), for the words “Lord Advocate, the Court of Session” substitute “prosecutor, the court”;
 - (b) in subsection (3)—
 - (i) in paragraph (a), for the words “Lord Advocate” substitute “prosecutor”; and
 - (ii) for paragraph (b) substitute—

“(b) must forthwith be registered by the prosecutor in the Register of Inhibitions”; and
 - (c) in subsection (7), for the words “Lord Advocate” substitute “prosecutor”.

The Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)

- 30 (1) The 2002 Act is amended as follows.
- (2) In section 10(3) (competence of attachment), for paragraphs (a) and (b) substitute—
 - “(a) the debtor has been charged to pay the debt;
 - (b) the period for payment specified in the charge has expired without payment being made; and
 - (c) where the debtor is an individual, the creditor has, no earlier than 12 weeks before taking any steps to execute the attachment, provided the debtor with a debt advice and information package.”.
 - (3) In section 11 (articles exempt from attachment)—
 - (a) in subsection (1), after paragraph (d) insert—

“(e) any money.”; and
 - (b) after subsection (2) insert—

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“(3) In subsection (1)(e) above, “money” has the same meaning as in section 175 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).”.

(4) After section 13 insert—

“13A Schedule of attachment

(1) The officer must, immediately after executing an attachment, complete a schedule such as is mentioned in subsection (2) below (in this section, the “attachment schedule”).

(2) An attachment schedule—

- (a) must be in (or as nearly as may be in) the form prescribed by Act of Sederunt; and
- (b) must specify—
 - (i) the articles attached; and
 - (ii) their value, so far as ascertainable.

(3) The officer must—

- (a) give a copy of the attachment schedule to the debtor; or
- (b) where it is not practicable to do so—
 - (i) give a copy of the schedule to a person present at the place where the attachment was executed; or
 - (ii) where there is no such person, leave a copy of it at that place.

(4) An attachment is executed on the day on which the officer complies with subsection (3) above.”.

(5) In section 14 (procedure for attachment of articles kept outwith dwellinghouses), for “19” substitute “ 19A ”.

(6) In section 15, the title to that section becomes “ Valuation ”.

(7) In section 28(1)(b) (restriction on alteration of arrangements for auctions), for “19” substitute “ 19A ”.

(8) In section 32 (report of auction)—

- (a) in subsection (2)(a), after sub-paragraph (iii) insert—
 - “(iiia) any sums paid by the debtor to account of the sum recoverable;”;and

^{F17}(b)

(9) In section 33 (audit of report of auction)—

- (a) in subsection (7), for the words from “providing” to the end substitute—
 - “(a) giving—
 - (i) the debtor;
 - (ii) the creditor; and
 - (iii) any third party who claims ownership (whether alone or in common with the debtor) of any attached article,
- an opportunity to make representations; or

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- (b) holding a hearing.”; and
- (b) in subsection (8), for “debtor” substitute “ persons mentioned in subsection (7)(a) above. ”.
- (10) In section 34 (articles belonging to third parties), in subsection (1)(b)(ii), for “so satisfied” substitute “ satisfied that the claim is valid ”.
- (11) In section 40 (recovery from debtor of expenses of attachment)—
- (a) in subsection (3)—
- (i) in paragraph (a), for “9(2)(a), (d) or (e)” substitute “ 9(2)(d) or (10)(b) ”; and
- (ii) in paragraph (c), for “presentation of a petition for an administration order” substitute “ appointment of an administrator ”; and
- (b) in subsection (4)(b), for “administration order” substitute “ appointment ”.
- (12) In section 41(2)(a) (ascription of sums recovered by attachment), after subparagraph (i) insert—
- “(ia) any previous interim attachment the expenses of which are chargeable against and recoverable from the debtor under section 9Q(1)(a) of this Act;”.
- ^{F18}(13)
- (14) In section 60(2) (application of the Act to sequestration for rent and arrestment) for the words “such a” substitute “ the landlord's ”.
- (15) In schedule 1, in paragraph 1, before “2” insert “ 1A, ”.

Textual Amendments

- F17** Sch. 5 para. 30(8)(b) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1
- F18** Sch. 5 para. 30(13) repealed (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 4 Pt. 2](#); [S.S.I. 2011/30](#), art. 3(1)(3), Sch. 1

Commencement Information

- I24** Sch. 5 para. 30 not in force at Royal Assent see s. 227; Sch. 5 para. 30(1)(5)-(8)(a)(15) in force for certain purposes and Sch. 5 para. 30(10)(11)(a)(ii)(b) in force at 31.3.2007 by [S.S.I. 2007/82](#), [art. 4\(e\)](#); Sch. 5 para. 30(2)(12)(14) in force and Sch. 5 para. 30(1)(4) in force for certain purposes at 1.4.2008 by [S.S.I. 2008/115](#), [art. 3\(2\){\(4\)}](#), Schs. 1, 3 (subject to art. 3(3) and with arts. 4-6, 10); Sch. 5 para. 30(1) in force for certain further purposes and Sch. 5 para. 30(4)(9)(11)(a)(i) in force at 22.4.2009 by [S.S.I. 2009/67](#), [art. 3\(2\)\(3\)](#), [Sch. 1 para. 8](#) (with transitional modifications and savings in [arts. 4-6](#)); Sch. 5 para. 30(1) in force for certain purposes and Sch. 5 para. 30(3) in force at 23.11.2009 by [S.S.I. 2009/369](#), [art. 3\(2\)\(3\)](#), [Sch. 1 para. 17](#) (with transitional modifications in [art. 4](#))

PROSPECTIVE

The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

^{F19}31

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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

Textual Amendments

- F19** Sch. 5 para. 31 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

The Finance Act 2003 (c. 14)

- 32 In paragraph 3(2) of Schedule 12 to the Finance Act 2003 (diligences which can be used to recover stamp duty land tax), after sub-paragraph (a) insert—
“(aa) a money attachment;”.

PROSPECTIVE

The Civil Partnership Act 2004 (c. 33)

F20 33

Textual Amendments

- F20** Sch. 5 para. 33 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

SCHEDULE 6

(introduced by section 226)

REPEALS AND REVOCATION

Commencement Information

- I25** Sch. 6 Pt. 1 partly in force; Sch. 6 Pt. 1 not in force at Royal Assent see s. 227; Sch. 6 Pt. 1 in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, art. 3(2), Sch. 1 (subject to art. 3(3) and with arts. 4-6, 10); Sch. 6 Pt. 1 in force for certain further purposes at 22.4.2009 by S.S.I. 2009/67, art. 3(2)(3), Sch. 2 (with transitional modifications and savings in arts. 4-6)

PART 1

REPEALS

Commencement Information

- I26** Sch. 6 Pt. 1 in force at 4.4.2011 for specified purposes by S.S.I. 2011/179, art. 3(c) (with art. 4)

Enactment

Extent of repeal

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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](#)

Decrees in Absence Act 1584 (c. 10) (Act of the Parliaments of Scotland)	The whole Act.
Ejection Caution Act 1594 (c. 27) (Act of the Parliaments of Scotland)	The whole Act.
Arrestments Act 1617 (c. 17) (Act of the Parliaments of Scotland)	The whole Act.
Diligence Act 1621 (c. 6) (Act of the Parliaments of Scotland)	The whole Act.
Adjudication Act 1621 (c. 7) (Act of the Parliaments of Scotland)	The whole Act.
Diligence Act 1661 (c. 344) (Act of the Parliaments of Scotland)	The whole Act.
Minority Act 1663 (c. 4) (Act of the Parliaments of Scotland)	The whole Act.
Adjudications Act 1672 (c. 45) (Act of the Parliaments of Scotland)	The whole Act.
Debtors (Scotland) Act 1838 (c. 114)	Section 17. Section 22.
Hypothec Amendment (Scotland) Act 1867 (c. 42)	The whole Act.
Titles to Land Consolidation (Scotland) Act 1868 (c. 101)	In section 3, in the definition of the “deed” and “conveyance”, the words “of adjudication for debt, and” and the words “whether for debt or implement,”. In section 62, the words “, whether for debt or”, in both places where they occur. In section 129, the words “, whether for debt or”, in both places where they occur. In section 159, the words “for debt or in security or”. Schedules PP and RR.
Hypothec Abolition (Scotland) Act 1880 (c. 12)	The whole Act.
Judicial Factors (Scotland) Act 1889 (c. 39)	In section 11A(2), the words “Court or”; and in paragraph (a), the word “permanent”.
Heritable Securities (Scotland) Act 1894 (c. 44)	Sections 3, 6 and 7. Schedules A to C
Sheriff Courts (Scotland) Act 1907 (c. 51)	In section 5(4), the words “actions of adjudication save in so far as now competent and”. In section 29, the words “of a warrant of sequestration for rent, or”. f21

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007 is up to date with all changes known to be in force on or before 25 February 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](#)

Conveyancing (Scotland) Act 1924 (c. 27)	In section 44, subsection (1); and in subsection (2), in paragraph (a)(i), the words “and Adjudications”, and paragraph (b).
Execution of Diligence (Scotland) Act 1926 (c. 16)	^{F21} ... Section 4. In section 5, the words from “a law agent” to the end.
Public Registers and Records (Scotland) Act 1948 (c. 57)	In section 1(2), the words “and Adjudications”.
Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)	Section 8(2)(e).
Taxes Management Act 1970 (c. 9)	In section 64(1), the words “pounding, sequestration for rent, or”.
Sheriff Courts (Scotland) Act 1971 (c. 58)	In section 35(1)(b), the words “and actions of sequestration for rent” and the words “or the rent in respect of which sequestration is asked,”.
Prescription and Limitation (Scotland) Act 1973 (c. 52)	Section 1(4).
Land Registration (Scotland) Act 1979 (c. 33)	In section 6(1)(c), the words “and Adjudications”. In section 12(3)(k), the words “and Adjudications”.
Sale of Goods Act 1979 (c. 54)	In section 62(5), the words “or sequestration for rent”.
Rent (Scotland) Act 1984 (c. 58)	Section 110.
Family Law (Scotland) Act 1985 (c. 37)	Section 19.
Bankruptcy (Scotland) Act 1985 (c. 66)	In section 1A, in subsection (1)(b)(ii), the words “under paragraph 5(1)(e) of Schedule 5 to this Act”; and in subsection (3)(c), the word “permanent”. Section 2(4). In section 3, the word “permanent” in each place where it occurs. In section 4, the words “(other than one to which Schedule 2 to this Act applies)”; and the word “permanent”. In section 5, in subsection (4A), the word “permanent”; in subsection (7), paragraph (a); and in subsection (8)(a), the words “or concurs in a petition by the debtor”. In section 7(1), in paragraph (c), subparagraphs (iii), (iv), (v) and (vi); and the words “ “confiscation order””, where they second occur. In section 8, in subsection (1)(a), subparagraph (i); in subsection (5), the words “, or

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the concurring in,”; and in subsection (6), the words “or concurring” and “or concur”.

Section 12(1A).

In section 13(2)(b), the words “in the sequestration”.

In section 14, in subsection (1)(a), the words “and adjudications”; in subsection (2) the words “and of a citation in an adjudication”; in subsection (3)(a), the words “, or by virtue of paragraph 11 of Schedule 4 to,”; in subsection (4), the word “permanent” and the words “and adjudications”; and subsection (5).

In section 15, in subsection (3), the words “or a creditor concurring in the petition for sequestration”; in subsection (5)(a), the words “and adjudications”; in subsection (6), the word “interim”; and in subsection (8)(a), the words from “permanent”, where it first occurs, to “interim”.

In section 16, in subsection (1)(b), the words “interim trustee, the permanent”; and in subsection (2), the words “interim trustee or permanent”.

In section 17(8), in paragraph (a), the words “and adjudications”; and in paragraph (b)(ii), the word “permanent”.

Section 18(2)(g).

In section 19, in subsection (1), the word “interim”, where it second occurs; and in subsections (2) to (4), the word “interim”, in each place where it occurs.

In section 20, the word “interim”, in each place where it occurs; and subsections (4) and (5).

In section 20A, the words “interim” and “21 or”.

In section 21A, in subsection (1), the word “interim”, where it second occurs; in subsections (2) to (7), the word “interim”, in each place where it occurs; and subsection (9).

In section 21B, in subsection (1), the word “interim”, where it first occurs and paragraph (b) and the word “and” immediately preceding that paragraph; and subsection (2).

In section 22, the word “interim”, in each place where it occurs; and in subsection (5)(b)(ii), the words “or permanent trustee”.

In section 23, the word “interim”, in each place where it occurs.

In section 24, in subsection (2), the word “permanent”, where it third and fourth occurs; and in subsection (4)(b), the words from “who” to the end.

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In section 25, in subsection (6), paragraph (a) and the word “and” immediately following that paragraph; and in paragraph (b), the words “where he is not the same person as the interim trustee,” and the word “permanent”.

Section 25A.

In section 26, in subsection (2)(b), the words “(unless the interim trustee has himself become the permanent trustee)”; and in subsection (3)(b)(i), the words “(except where the interim trustee has himself become the permanent trustee)”.

In section 26A, in subsection (2), the word “interim”, where it second occurs; and in subsections (4), (5) and (7), the word “interim”, in each place where it occurs.

Section 27(7).

In sections 28 to 30, the word “permanent”, in each place where it occurs.

In section 31, in subsection (1), the words “in the permanent trustee” and paragraphs (a) and (b) and the word “; and” immediately preceding them; in subsection (2), the words “(reserving any effect of such inhibition on ranking)”; and in subsections (2) to (7) and (10) the word “permanent”, in each place where it occurs.

In section 31A(2) (as inserted by paragraph 15 of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29)), the word “permanent”.

In section 31B, in subsection (1), the word “and” following paragraph (a); and in subsection (2), the word “permanent”

In sections 31C to 36C, 36E and 36F, the word “permanent”, in each place where it occurs.

In section 37, subsection (1)(a); in subsection (2), the word “which”, the words “shall be effectual to create a preference for the inhibitor and” and the word “permanent”; in subsection (4), the word “permanent” in both places where it occurs; in subsection (6), the word “permanent” in both places where it occurs; and in subsection (8), the words from “to”, where it first occurs, to “or”, where it [F22third] occurs; and in subsection (9), the word “permanent”.

In section 38, the word “permanent” in each place where it occurs.

In section 39, in subsection (1), the word “permanent”, in both places where it occurs, and the words “with the commissioners or, if there are no commissioners,”; and in paragraph (c), the words “if there are no

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commissioners,”; and in subsection (2), the word “permanent”, the words from “but” to “court” and the words from “if”, where it second occurs, to “estate”, where it first occurs; and in subsections (3) to (6) and (8), the word “permanent” in each place where it occurs.

In sections 40 to 45, the word “permanent” in each place where it occurs.

In section 46, in subsection (1), in paragraph (a), the word “permanent” and in paragraph (b) the words “the Court of Session or” and the word “permanent”; and in subsection (4), the word “permanent”.

In section 47, the word “permanent” in both places where it occurs.

In section 48, in subsection (1), the word “permanent”; in subsection (2), in paragraph (a), the word “interim” and in paragraph (b), the word “permanent”; in subsection (3), the words from “; and”, where it second occurs, to the end of the subsection; in subsections (4) and (5), the word “permanent”, in each place where it occurs; in subsection (7), paragraph (a) and in paragraph (b) the words “ “interim” and”, “respectively” and “ “permanent” and”; and in subsection (8), the word “permanent”.

In sections 49 to 53, the word “permanent”, in each place where it occurs.

In section 54, the word “permanent”, in each place where it occurs; in subsection (4)(b)(ii), the words “interim or”; and in subsection (7) (a), the words “and adjudications”.

In sections 56 and 57, the word “permanent”, in each place where it occurs.

In section 58A, in subsections (1), (4), (5) and (7), the word “permanent”, in each place where it occurs; and subsection (9).

In section 60(2), the word “permanent”.

In sections 61 to 65, the word “permanent”, in each place where it occurs.

In section 67, in subsection (4), the word “permanent”; and in subsection (5), in paragraph (b), the words “interim or permanent”.

In sections 69 and 70, the word “permanent”, in each place where it occurs.

In section 73(1), the definition of “permanent trustee”.

In section 75, in subsection (4), the words “by the permanent trustee”; in subsection (5), paragraph (b); in subsection (7), the word

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	<p>“permanent”; and in subsection (11), the words from “permanent”, where it first occurs, to “interim”.</p> <p>In Schedule 1, the word “permanent”, in each place where it occurs.</p> <p>In Schedule 4, in paragraph 1(1), the word “permanent”, where it second occurs; in paragraph 2, the word “permanent”; in paragraph 4, the word “permanent”, where it first occurs; in paragraph 9, in sub-paragraphs (1) and (1A), the word “permanent”, in each place where it occurs; in paragraph 12, the word “permanent”, in both places where it occurs; in paragraph 17, in sub-paragraphs (1), (3) and (4), the word “permanent”, in each place where it occurs; and in paragraph 18, in sub-paragraphs (3) and (4), the word “permanent”, in each place where it occurs.</p> <p>In Schedule 5, in paragraph 2(1), the words “and adjudications”; and in paragraph 4, sub-paragraphs (b)(ii) and (d).</p> <p>In Schedule 6, the word “permanent”, in each place where it occurs (including the occurrence in the italic cross-heading preceding paragraph 7); and in paragraph 11(2), the words “the interim trustee or, as the case may be,”.</p> <p>In Schedule 7, in paragraph 25(a), the words “interim or permanent”.</p>
Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)	In section 8(7), the words “and Adjudications”.
Insolvency Act 1986 (c. 45)	In section 185(2)(d), the word “permanent”.
Debtors (Scotland) Act 1987 (c. 18)	Section 2(1)(b)(iv). In section 5, subsection (1)(c). Section 8(3). In section 9, subsection (1)(b)(iv); and, in subsection (8), the words “to grant”. Section 15(1). F21 ... Section 101. In Schedule 6, paragraph 3.
Proceeds of Crime (Scotland) Act 1995 (c. 43)	In section 32, in subsection (2), the words from “as” to the end; subsection (3); and in subsection (5)(b), the words “and Adjudications”. In Schedule 1, in paragraph 7(c), the words from “raise” to “property” where it first occurs
Terrorism Act 2000 (c. 11)	In Schedule 4, in paragraph 21, in sub-paragraph (2)(b) the words from “shall”, where it first occurs, to “and”, where it first

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	occurs, and the words “and adjudications”; in sub-paragraph (3), the words from “as” to the end; and in sub-paragraph (5)(b), the words “and adjudications”.
Mortgage Rights (Scotland) Act 2001 (asp 11)	In section 3(1) , the words “and Adjudications”.
International Criminal Court (Scotland) Act 2001 (asp 13)	In Schedule 6, in paragraph 6, in sub-paragraph (2)(b) the words from “shall”, where it first occurs, to “and”, where it first occurs, and the words “and Adjudications”; in sub-paragraph (3), the words from “as” to the end; and in sub-paragraph (6)(b), the words “and Adjudications”. In Schedule 6, in paragraph 10(6) , the words “and Adjudications”.
Proceeds of Crime Act 2002 (c. 29)	In section 123, in subsection (4), the words from “as” to the end; and in subsection (7)(b), the words “and Adjudications”. Section 285(7). In Schedule 3, paragraph 7(5), the words from “raise” to “property” where it first occurs.
Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)	Section 4(2A)(d). Section 15(1). Section 60(1), (2)(b), (4) and (5). [^{F23} In]Schedule 1, paragraph 4(a), the words “of court”.

Textual Amendments

- F21** Words in Sch. 6 repealed (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1)(3), Sch. 1
- F22** Word in Sch. 6 substituted (1.4.2015) by Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11), s. 57(2), Sch. 3 para. 40; S.S.I. 2014/261, art. 3 (with arts. 4-712) (as amended by S.S.I. 2015/54, art. 2)
- F23** Word in Sch. 6 Pt. 1 inserted (31.1.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), Sch. 4 para. 32; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

PART 2

REVOCATION

<i>Enactment</i>	<i>Extent of revocation</i>
The Bankruptcy (Scotland) Regulations 1985 (S.I. 1985 No. 1925)	Regulation 13.

Changes to legislation:

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Changes and effects yet to be applied to :

- Pt. 2 applied (with modifications) by [S.I. 2015/428 art. 5\(2\)Sch. 2](#) (This amendment has effect from the day on which 2007 asp 3, s. 46 comes into force)
- Pt. 2 applied by 1967 c. 48 s. 3(1) (as inserted) by [2007 asp 3 s. 49\(1\)](#)
- s. 40(1)-(3) modified by 1967 c. 48 s. 3(2) (as inserted) by [2007 asp 3 s. 49\(1\)](#)
- s. 45(3)(c) modified by 1967 c. 48 s. 3(2) (as inserted) by [2007 asp 3 s. 49\(1\)](#)
- s. 221 words substituted by [2008 c. 6 Sch. 7 para. 6](#)

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))