



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1966

## 1966 CHAPTER 19

An Act to exempt from arrestment on the dependence of an action sums falling to be paid by way of wages, salary or other earnings or by way of pension, to abolish the exemption from arrestment in execution of certain earnings payable by the Crown, and to provide for the variation from time to time of the amount of wages excepted from arrestment under the Wages Arrestment Limitation (Scotland) Act 1870; to amend section 5 of the Adoption Act 1958, and to provide in Scotland for the succession of an adopted person to the estate of his natural parent in certain circumstances; to amend section 5 of the Trusts (Scotland) Act 1961; to provide for the admission in evidence of certain documents in civil proceedings; to confer jurisdiction on the sheriff court to vary or recall certain orders of the Court of Session in respect of maintenance, custody and welfare of children; to provide for the extension of certain time limits in appeals under the Summary Jurisdiction (Scotland) Act 1954; and to provide that acts of adjournal and acts of sederunt shall be statutory instruments. [3rd August 1966]

### Annotations:

#### Editorial Information

- X1** The text of ss. 1–3, 11(1)(3) was taken from S.I.F. Group 45:2 (Enforcement: Scotland), ss. 5, 11, Sch. from S.I.F. Group 116:2 (Succession: Confirmation, Scotland), ss. 6, 11 from S.I.F. Group 128 (Trusts and Liferents, Scotland), ss. 8, 11, Sch. from S.I.F. Group 49:3 (Family Law: Matrimonial Proceedings) and ss. 10, 11(1)(3) from S.I.F. Group 115:2 (Statutes and Statutory Instruments: Statutory Instruments); provisions omitted from S.I.F. have been dealt with as referred to in other commentary.

#### Modifications etc. (not altering text)

- C1** Words of enactment omitted by Statute Law Revision Act 1948 c. 62, s. 3

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**1 Wages, pensions etc., to be exempt from arrestment on the dependence of an action.**

- (1) After the passing of this Act it shall not be competent to arrest on the dependence of an action any earnings or any pension.
- (2) (a) For the purposes of this and of the next following section “ earnings” means any sums payable by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary by the person paying the wages or salary or payable under a contract of service);
- (b) in this section “ pension” includes—
  - (i) any annuity in respect of past services, whether or not the services were rendered to the person paying the annuity, and any periodical payments by way of compensation for the loss, abolition or relinquishment, or any diminution in the emoluments, of any office or employment;
  - (ii) any pension or allowance payable in respect of disablement or disability.

**2, 3.** ..... F1

**Annotations:**

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**Amendments (Textual)**

F1 Ss. 2, 3 repealed by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108, Sch. 7 paras. 5, 9(1), Sch. 8

**4** ..... F2

**Annotations:**

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**Amendments (Textual)**

F2 S. 4 repealed by Children Act 1975 (c. 72), s. 108(1)(b), Sch. 4 Pt. IV

**5 Adopted person to be treated as child of natural parents for the purposes of succession in certain circumstances.**

- (1) Notwithstanding section 23(1) of the Succession (Scotland) Act 1964 (adopted person to be treated for the purposes of succession as the child of the adopter), where the adopter of an adopted person has died before 10th September 1964, the adopted person shall be treated for the purposes of succession to the estate of a natural parent, who dies after the commencement of this Act, as the child of that parent.
- (2) In the foregoing subsection, in relation to a person adopted jointly by spouses any reference, however worded, to the death of an adopter shall be construed as a reference to the death of both spouses: and other expressions shall have the same meaning as in Part IV of the <sup>M1</sup> Succession (Scotland) Act 1964.

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**Annotations:**

**Marginal Citations**

M1 1964 c. 41.

**6 Amendment of s. 5 of Trusts (Scotland) Act 1961.**

- (1) The periods for which accumulations of income under a settlement or other disposition are permitted by section 5 of the <sup>M2</sup>Trusts (Scotland) Act 1961 shall include—
- (a) a term of twenty-one years from the date of the making of the settlement or other disposition, and
  - (b) the duration of the minority or respective minorities of any person or persons living or in utero at that date,
- and a direction to accumulate income during a period specified in paragraph (a) or paragraph (b) of this subsection shall not be void, nor shall the accumulation of the income be contrary to the said section 5, solely by reason of the fact that the period begins during the life of the grantor and ends after his death.
- (2) The restrictions imposed by the said section 5 shall apply in relation to a power to accumulate income whether or not there is a duty to exercise that power, and they shall apply whether or not the power to accumulate extends to income produced by the investment of income previously accumulated.
- (3) This section shall apply only in relation to instruments taking effect after the passing of this Act, and in the case of an instrument made in the exercise of a special power of appointment shall apply only where the instrument creating the power takes effect after the passing of this Act.

**Annotations:**

**Marginal Citations**

M2 1961 c. 57.

**7** ..... F3

**Annotations:**

**Amendments (Textual)**

F3 S. 7 repealed by [Civil Evidence \(Scotland\) Act 1988 \(c. 32\)](#), s. 10(1), [Sch.](#)

**8 Variation and recall by the sheriff of certain orders made by the Court of Session in respect of maintenance, custody etc., and amendment of s. 2 of the Divorce (Scotland) Act 1938.**

- (1) The provisions of this section shall apply to the following orders made by the Court of Session, that is to say—
- (a) an award of aliment,

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- (b) an order for an annual or periodical allowance made under section 2 of the <sup>M3</sup>Divorce (Scotland) Act 1938, whether under that section as originally enacted or as amended by any subsequent enactment including this Act,
  - (c) an order for a periodical allowance made under subsection (2) or (3) of section 26 of the <sup>M4</sup>Succession (Scotland) Act 1964, [<sup>F4</sup>or under section 5 of the Divorce (Scotland) Act 1976][<sup>F5</sup>or section 29 of the Matrimonial and Family Proceedings Act 1984][<sup>F6</sup>or section 8 of the Family Law (Scotland) Act 1985]
  - [<sup>F7</sup>(cc) an order under section 11 of the Children (Scotland) Act 1995 (orders in respect of parental responsibilities etc.) or under any earlier enactment relating to the custody, care or supervision of a child, or access to a child;]
  - (d) an order made by virtue of section 9 of the <sup>M5</sup>Conjugal Rights (Scotland) (Amendment) Act 1861 or under Part II of the <sup>M6</sup>Matrimonial Proceedings (Children) Act 1958 [<sup>F8</sup>or by virtue of Part II of the <sup>M7</sup>Guardianship Act 1973], and
  - (e) an order varying any such order as aforesaid.
- (2) Where any person has a right to make application for the variation or recall of any order . . . <sup>F9</sup>to which the provisions of this section apply, he may make an application in that behalf to the sheriff, and, subject to the provisions of the next following subsection, the sheriff shall have the like powers in relation to the application as the Court of Session.
- (3) Where in any application under this section any other party to the action, not later than the first calling of the application in court, requests that it be remitted to the Court of Session, the sheriff shall so remit, and the Court of Session shall deal with it accordingly.
- (4) Notwithstanding anything in Part I of the <sup>M8</sup>Public Records (Scotland) Act 1937 (transmission of court records to and from the Keeper of the Records of Scotland etc.), the powers of the Court of Session, conferred by sections 16 and 34 respectively of the <sup>M9</sup>Administration of Justice (Scotland) Act 1933 to regulate its own procedure and that of the sheriff court, shall include power to provide for the transmission to and from the sheriff court of any process in the action to which an application under this section relates; and for the purposes of the said Act of 1937 and of this section any record of such an application shall be deemed to be a record of the Court of Session.
- (5) . . . . . <sup>F10</sup>
- (6) In this section—
- “order” includes a provision in a final decree, but does not include an interim order,
  - “party” means any person having a right to make application for the variation or recall of the order in question, and
  - “sheriff” means
- [<sup>F11</sup>(a) in relation to an order under subsection (1)(a), (b) [<sup>F12</sup>, (c) or (cc)]above or an order varying any such order]the sheriff having jurisdiction over any party on whom the application has to be served, on any of the grounds mentioned in paragraph (a), (b) or (j) of section 6 of the <sup>M10</sup>Sheriff Courts (Scotland) Act 1907.
  - [<sup>F13</sup>(b) in relation to an order mentioned in subsection (1)(d) above or an order varying any such order, the sheriff having jurisdiction under section 9, 10 or 12 of the Family Law Act 1986.]

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**Annotations:**

**Amendments (Textual)**

- F4** Words added by [Divorce \(Scotland\) Act 1976 \(c. 39, SIF 49:3\)](#), s. 12(1), **Sch. 1 para. 3**
- F5** Words added by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(1), 48(2)(3), **Sch. 1 para. 7**
- F6** Words added by [Family Law \(Scotland\) Act 1985 \(c. 37, SIF 49:3\)](#), ss. 28(1), 29(4), **Sch. 1 para. 5**
- F7** [S. 8\(1\)\(cc\)](#) inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 14(a)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F8** Words inserted by [Guardianship Act 1973 \(c. 29\)](#), **Sch. 5 para. 6**
- F9** Words repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(2), 69, **Sch. 2**
- F10** [S. 8\(5\)](#) repealed by [Divorce \(Scotland\) Act 1976 \(c. 39, SIF 49:3\)](#), **Sch. 2**
- F11** Words inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), **Sch. 1 para. 8(a)**
- F12** Words in [s. 8\(6\)\(a\)](#) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 14(b)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F13** Words added by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), **Sch. 1 para. 8(b)**

**Modifications etc. (not altering text)**

- C2** [S. 8](#) extended by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), **s. 10(2)**

**Marginal Citations**

- M3** 1938 c. 50.
- M4** 1964 c. 41.
- M5** 1861 c. 86.
- M6** 1958 c. 40.
- M7** 1973 c. 29.
- M8** 1937 c. 43.
- M9** 1933 c. 41.
- M10** 1907 c. 51.

9 ..... F14

**Annotations:**

**Amendments (Textual)**

- F14** [S. 9](#) repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 461(2), **Sch. 10 Pt. I**

**10 Acts of adjournal and acts of sederunt to be statutory instruments.**

Where any Act passed after the commencement of the Statutory Instruments Act 1946, whether before or after the commencement of this Act, confers power on the High Court of Justiciary to make provision in respect of any matter by act of adjournal, or on the Court of Session to make such provision by act of sederunt, any document by which that power is exercised shall, unless the Act conferring the power otherwise provides, be a statutory instrument, and the provisions of the said Act of 1946 shall apply to it as they apply to a statutory instrument made by a Minister of the Crown.

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## 11 † Interpretation, repeals, citation, and extent.

- (1) Any reference to this Act to an enactment shall be construed as a reference to that enactment as amended by any other enactment including this Act.
- (2) .....<sup>F15</sup>
- (3) This Act may be cited as the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966, and shall extend to Scotland only.

### Annotations:

#### Amendments (Textual)

**F15** S. 11(2), Sch. repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

#### Modifications etc. (not altering text)

**C3** A dagger appended to a marginal note means that it is no longer accurate

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F16

SCHEDULE

**Annotations:**

**Amendments (Textual)**

**F16** S. 11(2), Sch. repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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**Changes and effects yet to be applied to :**

- s. 10 repealed by [2010 asp 10 s. 27\(5\)](#)

**Commencement Orders yet to be applied to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.S.I. 2011/4 art. 3 4](#) commences ([2010 asp 10](#))
- [S.S.I. 2011/17 art. 3 4](#) commences ([2010 asp 10](#))