



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART VII

MISCELLANEOUS AND GENERAL

93 Recovery from debtor of expenses of certain diligences.

(1) Subject to subsections (3) and (5) below, any expenses chargeable against the debtor which are incurred in—

- (a) ^{F1}
- (b) the service of an earnings arrestment schedule (including the service of the charge preceding it);
- (c) an application for, or for inclusion in, a conjoined arrestment order under section 60(2) or 62(5) of this Act,

shall be recoverable from the debtor by the diligence concerned but not by any other legal process, and any such expenses which have not been recovered by the time the diligence is completed or otherwise ceases to have effect shall cease to be chargeable against the debtor.

(2) Subject to subsection (5) below, any expenses chargeable against the debtor which are incurred in the service of a schedule of arrestment and in an action of furthcoming or sale shall be recoverable from the debtor out of the arrested property; and the court shall grant a decree in the action of furthcoming for payment of the balance of any expenses not so recovered.

(3) ^{F2}

(4) Subsection (5) below applies where any diligence mentioned in subsection (1) or (2) above is—

- (a) recalled under section 9(2)(a), (d) or (e) of this Act in relation to a time to pay order;
- (b) in effect immediately before the date of sequestration (within the meaning of the Bankruptcy (Scotland) Act [^{F3}2016]) of the debtor's estate;

Changes to legislation: Debtors (Scotland) Act 1987, Section 93 is up to date with all changes known to be in force on or before 17 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

- (c) in effect immediately before the presentation of a petition for an administration order under Part II of ^{F4}, or the appointment of an administrator under paragraph 14 or 22 of Schedule B1 to,] the ^{M1}Insolvency Act 1986;
 - (d) in effect against property of the debtor immediately before a floating charge attaches to all or part of that property under section 53(7) or 54(6) of that Act;
 - (e) in effect immediately before the commencement of the winding up, under Part IV or V of that Act, of the debtor;
 - (f) rendered unenforceable by virtue of the creditor entering into a composition contract or acceding to a trust deed for creditors or by virtue of the subsistence of a protected trust deed within the meaning of ^{F5}schedule 4 of the Bankruptcy (Scotland) Act 2016]; or
 - (g) recalled by a conjoined arrestment order.
- (5) Where this subsection applies—
- (a) the expenses of the diligence which were chargeable against the debtor shall remain so chargeable; and
 - (b) if the debtor’s obligation to pay the expenses is not discharged under or by virtue of the time to pay order, sequestration, ^{F6}administration], receivership, winding up, composition contract, trust deed for creditors or conjoined arrestment order, those expenses shall be recoverable by further diligence in pursuance of the warrant which authorised the original diligence.
- (6) The expenses incurred in the execution of a current maintenance arrestment shall be recoverable by any diligence other than a current maintenance arrestment, and shall be so recoverable in pursuance of the warrant which authorised the current maintenance arrestment.

Textual Amendments

- F1** S. 93(1)(a) repealed (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 17\(11\)\(a\)](#) (with s. 63)
- F2** S. 93(3) repealed (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 17\(11\)\(b\)](#) (with s. 63)
- F3** Word in s. 93(4)(b) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 11\(7\)\(a\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F4** Words in s. 93(4)(c) inserted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 13\(a\)](#) (with art. 6)
- F5** Words in s. 93(4)(f) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 11\(7\)\(b\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F6** Word in s. 93(5)(b) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 13\(b\)](#) (with art. 6)

Marginal Citations

- M1** 1986 c. 45.

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