



Administration of Justice Act 1956

1956 CHAPTER 46 4 and 5 Eliz 2

PART V

ADMIRALTY JURISDICTION AND ARRESTMENT OF SHIPS IN SCOTLAND

[^{F1}Special provision in relation to charters by demise

Textual Amendments

F1 Ss. 47E-47H and preceding cross-heading inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), [Sch. 4 para. 12](#) (with s. 223); S.S.I. 2010/249, [art. 2](#)

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.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956, Cross Heading: Special provision in relation to charters by demise. (See end of Document for details)

- (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.
- (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.
- [^{F2}(3) Subsections (6) to (8) of section 24 of the Bankruptcy (Scotland) Act 2016 (further provision as regards the effect of sequestration on diligence) and, in so far as applying and modifying those subsections, section 185(1)(a) and (2) of the Insolvency Act 1986 (application of sequestration provisions relating to diligence on winding up) shall apply to such an arrestment as they apply to any other arrestment.]

Textual Amendments

F2 S. 47G(3) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 4](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

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.]

Changes to legislation:

There are currently no known outstanding effects for the Administration of Justice Act 1956,
Cross Heading: Special provision in relation to charters by demise.