



Debtors Act 1869

1869 CHAPTER 62 32 and 33 Vict

PART I

ABOLITION OF IMPRISONMENT FOR DEBT

5 Saving of power of committal for small debts.

Subject to the provisions herein-after mentioned, and to the prescribed rules, any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent court.

Provided—

- (1) That the jurisdiction by this section given of committing a person to prison shall, in the case of [^{F1}the county court—]
 - (a) Be exercised only by a judge [^{F2}of the court], and by an order made in open court and showing on its face the ground on which it is issued:
 - (b)
 - (c)
- (2) That such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same.

[^{F5}Proof of the means of the person making default may be given in such manner as the court thinks just.

For the purpose of considering whether to commit a debtor to prison under this section, the debtor may be summoned in accordance with the prescribed rules.]

Any jurisdiction by this section given to the [^{F6}High Court or family court may] be exercised by a judge sitting in chambers, or otherwise, in the prescribed manner.

^{F7}

Changes to legislation: There are currently no known outstanding effects for the Debtors Act 1869, Section 5. (See end of Document for details)

Persons committed under this section [F8by the High Court or family court] may be committed to the prison in which they would have been confined if arrested on a writ of *capias ad satisfaciendum*, and every order of committal [F8by the High Court or family court] shall, subject to the prescribed rules, be issued, obeyed, and executed in the like manner as such writ.

This section, so far as it relates to [F9the county court], shall be deemed to be substituted for sections ninety-eight and ninety-nine of the M1County Courts Act 1846, and that Act and the Acts amending the same shall be construed accordingly, and shall extend to orders made by the county court with respect to sums due in pursuance of any order or judgment of any court [F10other than the] county court.

No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods, or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place.

Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned, together with the prescribed costs (if any).

[F11Section 31E(1)(b) of the Matrimonial and Family Proceedings Act 1984 (family court has county court's powers) does not apply in relation to the powers given by this section to the county court.]

Textual Amendments

- F1** Words in s. 5 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 2\(1\)\(a\)](#); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F2** Words in s. 5 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 78\(a\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3** S. 5 proviso (1)(b) repealed by [Bankruptcy Act 1883 \(c. 52\), Sch. 5](#)
- F4** Words in s. 5 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 2\(1\)\(b\)](#); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F5** S. 5: the sentence after the second proviso is substituted (25.3.2002) by [S.I. 2002/439, art. 3](#)
- F6** Words in s. 5 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 2\(2\)\(a\)](#); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F7** Words in s. 5 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 17](#) Group 6
- F8** Words in s. 5 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 2\(2\)\(b\)](#); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F9** Words in s. 5 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 78\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F10** Words in s. 5 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 78\(c\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Changes to legislation: There are currently no known outstanding effects for the Debtors Act 1869, Section 5. (See end of Document for details)

F11 Words in s. 5 inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 2\(2\)\(c\); S.I. 2014/954, art. 2\(d\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)

Modifications etc. (not altering text)

C1 S. 5 extended by [Crown Proceedings Act 1947 \(c. 44\), s. 26\(2\)](#) and [Administration of Justice Act 1956 \(c. 46\), s. 40](#); restricted by [S.I. 1952/2113 \(1952 I, p. 213\), rr. 377, 378](#), [National Insurance \(Industrial Injuries\) Act 1965 \(c. 52\), s. 28\(2\)](#), [Family Allowances Act 1965 \(c. 53\), s. 10\(2\)](#), [Administration of Justice Act 1970 \(c. 31\), s. 11](#) and [Social Security Act 1975 \(c. 14\), s. 87\(3\)](#); modified by [Attachment of Earnings Act 1971 \(c. 32\), s. 3\(4\)–\(7\)](#)

C2 S. 5 modified (1.7.1992) by [Social Security Administration Act 1992 \(c. 5\), ss. 187\(3\), 192\(4\)](#)

Marginal Citations

M1 [1846 c. 95.](#)

Changes to legislation:

There are currently no known outstanding effects for the Debtors Act 1869, Section 5.