



Civil Imprisonment (Scotland) Act 1882

1882 CHAPTER 42 45 and 46 Vict

4 Power to imprison for wilful failure to obey decree for alimentary debt.

Subject to the provisions herein-after contained, any [^{F1}sheriff principal or sheriff] may commit to prison for a period not exceeding six weeks, or until payment of the sum or sums of aliment, and expenses of process decerned for, or such instalment or instalments thereof as the [^{F1}sheriff principal or sheriff] may appoint, or until the creditor is otherwise satisfied, any person who wilfully fails to pay within the days of charge any sum or sums of aliment, together with the expenses of process, for which decree has been pronounced against him by any competent court; provided—

- (1) That the warrant to commit to prison may be applied for by the creditor in the sum or sums decerned for without any concurrence:
- (2) That the application shall be disposed of summarily, and without any written pleadings:
- (3) That the failure to pay shall be presumed to have been wilful until the contrary is proved by the debtor; but that a warrant of imprisonment shall not be granted if it is proved to the satisfaction of the [^{F1}sheriff principal or sheriff] that the debtor has not, since the commencement of the action in which the decree was pronounced, possessed or been able to earn the means of paying the sum or sums in respect of which he has made default, or such instalment or instalments thereof as the [^{F1}sheriff principal or sheriff] shall consider reasonable:
- (4) That a warrant of imprisonment may be granted of new, subject to the same provisions and conditions, at intervals of not less than six months, against the same person in respect of failure to pay the same sum or sums of aliment and expenses of process, if or in so far as still remaining due, or such instalment or instalments thereof as the [^{F1}sheriff principal or sheriff] shall consider reasonable, or any sums afterwards accruing due under the decree, or such instalment or instalments thereof as the sheriff or sheriff substitute shall consider reasonable:
- (5) That the imprisonment shall not to any extent operate as a satisfaction or extinction of the debt, or interfere with the creditor's other rights and remedies for its recovery:

Changes to legislation: There are currently no known outstanding effects for the Civil Imprisonment (Scotland) Act 1882, Section 4. (See end of Document for details)

- (6) That the creditor, upon whose application the warrant of imprisonment is granted, shall not be liable to aliment or to contribute to the aliment of the debtor while incarcerated under such warrant; but that the incarcerated debtor shall be subject to the enactments and rules as to maintenance, work, discipline, and otherwise applicable to the class of prisoners committed for contempt of court.

Textual Amendments

- F1** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **s. 4**

Modifications etc. (not altering text)

- C1** [S. 4](#) amended by [Social Security Act 1975 \(c. 14\)](#), **s. 87(3)**
- C2** [S. 4](#) amended (E.W.S.) (5.4.1993) by [Child Support Act 1991 \(c. 48, SIF 20\)](#), **s. 40(14)**; S.I. 1992/2644, **art.2**
- C3** [S. 4](#) modified (1.7.1992) by [Social Security Administration Act 1992 \(c. 5\)](#), **ss.187(3)**, 192(4)

Changes to legislation:

There are currently no known outstanding effects for the Civil Imprisonment (Scotland) Act 1882, Section 4.