Debtors (Scotland) Act 1987

1987 CHAPTER 18

[F1][F1]PART 3A

ARRESTMENT AND ACTION OF FURTHCOMING

[F1]73F Protection of minimum balance in certain bank accounts

(1) Subject to subsection (2) below, this section applies where—

(a) a creditor arrests—

(i) in pursuance of a warrant granted for diligence on the dependence of an action; or

(ii) in execution of a decree or document of debt;

(b) the arrestment attaches funds standing to the credit of a debtor in an account held by a bank or other financial institution; and

(c) the debtor is an individual.

(2) This section does not apply where the account is—

(a) held in the name of a company, a limited liability partnership, a partnership or an unincorporated association; or

(b) operated by the debtor as a trading account.

(3) The arrestment shall—

(a) in a case where the sum standing to the credit of the debtor exceeds the sum **[**[F2]of £1,000**]**, attach only the balance above that sum; and

(b) in any other case, attach no funds.

[F3](4) . . . . . .

(5) In subsection (1) above, "bank or other financial institution" means—

(a) the Bank of England;

(b) a person who has permission under **[**[F4]Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to accept deposits;

Changes to legislation: *Debtors (Scotland) Act 1987, Section 73F is up to date with all changes known to be in force on or before 07 July 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) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that schedule (as a result of qualifying for authorisation under paragraph 12 of that schedule) to accept deposits; or

(d) a person who is exempt from the general prohibition in respect of accepting deposits as a result of an exemption order made under section 38(1) of that Act,

and the expressions in this definition shall be read with section 22 of that Act, any relevant order made under that section and Schedule 2 to that Act.

(6) The Scottish Ministers may, by regulations—

(a) modify subsection (2) above so as to—

(i) add or remove types of account to or, as the case may be, from those referred to in that paragraph; or

(ii) vary any of the descriptions of the types of account there referred to; [F5]...

[F6](aa) vary the protected minimum sum mentioned in subsection (3)(a), and]

(b) modify the definition of "bank or other financial institution" in subsection (5) above so as to—

(i) add or remove types of financial institution to or, as the case may be, from those referred to in that provision; or

(ii) vary any of the descriptions of the types of institution there referred to.]

Textual Amendments

F1 Pt. 3A inserted (1.4.2008 for the insertion of ss. 73A(5), 73B(2), 73C(2), 73E(3), 73F(6), 73G(2), 73H(1)(2), 73M(2)(a), 73Q(3)(a), 73S(1)(2) for specified purposes and for the insertion of s. 73A(2), 22.4.2009 otherwise except for the insertion of s. 73D) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 206**, 227(3) (with s. 223); S.S.I. 2008/115, art. 3(1)(e)(4), sch. 3 (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3); S.S.I. 2009/67, art. 3(1)(b) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))

F2 Words in s. 73F(3) substituted (1.11.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 22(2)(a)**, 59(1) (with s. 22(3))

F3 S. 73F(4) repealed (1.11.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 22(2)(b)**, 59(1) (with s. 22(3))

F4 Words in s. 73F(5)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 56** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F5 Word in s. 73F(6)(a)(ii) repealed (1.11.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 22(2)(c)(i)**, 59(1) (with s. 22(3))

F6 S. 73F(6)(aa) inserted (1.11.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 22(2)(c)(ii)**, 59(1) (with s. 22(3))

Changes to legislation:
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View outstanding changes

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)