



Judgments Act 1838

1838 CHAPTER 110 1 and 2 Vict

An Act
F1
for extending the Remedies of Creditors against the Property of Debtors . . .
F1
[16th August 1838]

Textual Amendments

F1 Words repealed by [Statute Law Revision \(No. 2\) Act 1888 \(c. 57\)](#)

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
C2 Preamble not relevant to unrepealed provisions of the Act

Commencement Information

I1 Act wholly in force at Royal Assent.

1—10. F2

Textual Amendments

F2 Ss. 1–10 repealed by [Bankruptcy Repeal and Insolvent Court Act 1869 \(c. 83\)](#), [Sch.](#)

11 F3

Textual Amendments

F3 S. 11 repealed by [Administration of Justice Act 1956 \(c. 46\)](#), [Sch. 2](#)

*Status: Point in time view as at 02/07/2012.**Changes to legislation: There are currently no known outstanding effects for the Judgments Act 1838. (See end of Document for details)***12 Sheriff empowered to seize money, bank notes, &c.; and to pay money or bank notes to execution creditor; and to sue for amount secured by bills of exchange and other securities. Proviso as to indemnity for sheriff.**

By virtue of any writ of fieri facias to be sued out of any superior or inferior court, or any precept in pursuance thereof, the [^{F4}high sheriff] or other officer having the execution thereof may and shall seize and take any money or bank notes, (whether of the Bank of England, or of any other bank or bankers) and any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money, belonging to the person against whose effects such writ of fieri facias shall be sued out; and may and shall pay or deliver to the party suing out such execution any money or bank notes which shall be so seized, or a sufficient part thereof; and may and shall hold any such cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money as a security or securities for the amount by such writ of fieri facias directed to be levied, or so much thereof as shall not have been otherwise levied and raised; and may sue in the name of such [^{F4}high sheriff] or other officer for the recovery of the sum or sums secured thereby, if and when the time of payment thereof shall have arrived; and the payment to such [^{F4}high sheriff] or other officer by the party liable on any such cheque, bill of exchange, promissory note, bond, specialty, or other security, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment, or of such recovery and levy in execution, as the case may be, from his liability on any such cheque, bill of exchange, promissory note, bond, specialty, or other security; and such [^{F4}high sheriff] or other officer may and shall pay over to the party suing out such writ the money so to be recovered, or such part thereof as shall be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied, together with sheriff's poundage and expences [^{F5}or other officer's fees], any surplus shall remain in the hands of such [^{F4}high sheriff] or other officer, the same shall be paid to the party against whom such writ shall be so issued; provided that no such [^{F4}high sheriff] or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, specialty, or other security, unless the party suing out such execution shall enter into a bond, with two sufficient sureties, for indemnifying him from all costs and expences to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof, the expence of such bond to be deducted out of any money to be recovered in such action.

Textual Amendments**F4** Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), **s. 219(1)****F5** Words in s. 12 inserted (15.3.2004) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), **Sch. 8 para. 9**; [S.I. 2004/401](#), art. 2(b)(ii) (with art. 3)**13** **F6****Textual Amendments****F6** [S. 13](#) repealed by [Law of Property Act 1925 \(c. 20\)](#), **Sch. 7****14, 15.** **F7**

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Textual Amendments

F7 Ss. 14, 15 repealed by S.I. 1965/1776, Sch. 2

16 **F8**

Textual Amendments

F8 S. 16 repealed by Statute Law Revision (No. 2) Act 1874 (c. 96)

17 Judgment debts to carry interest.

[^{F9}(1)] Every judgment debt shall carry interest at the rate of [^{F10}8] pounds per centum per annum from [^{F11}such time as shall be prescribed by rules of court] . . . ^{F12} until the same shall be satisfied, and such interest may be levied under a writ of execution on such judgment.

^{F13}[(2) Rules of court may provide for the court to disallow all or part of any interest otherwise payable under subsection (1).]

Textual Amendments

F9 S. 17 renumbered as s. 17(1) (26.4.1999) by S.I. 1998/2940, art. 3(a); S.I. 1998/3132

F10 Word substituted (1.4.1993) in relation to any judgment entered up after 1.4.1993 by virtue of S.I. 1993/564, arts. 1, 2.

F11 Words in s. 17(1) substituted (26.4.1999) by S.I. 1998/2940, art. 3(b); S.I. 1998/3132

F12 Words repealed by Civil Procedure Acts Repeal Act 1879 (c. 59), Sch. Pt. I

F13 S. 17(2) inserted (26.4.1999) by S.I. 1998/2940, art. 3(c); S.I. 1998/3132

Modifications etc. (not altering text)

C3 S. 17 applied by Crown Proceedings Act 1947 (c. 44), s. 24(1)(4)
S. 17 applied (7.10.2001) by S.I. 2001/3352, rule 6.22(2)

C4 S. 17 applied: (1.7.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 15(3); (3.2.1995) by 1994 c. 37, ss. 10(3), 69(2) (with s. 66(2)); (1.11.1995) by 1988 c. 33, s. 75A(3) (as inserted (1.11.1995) by 1995 c. 11, s. 9 (with s. 16(6)); S.I. 1995/2650, art. 2); (2.9.1998) by 1993 c. 39, s. 10A(13) (as inserted (2.9.1998) by 1998 c. 22, ss. 2(1)(5), 27(5))

C5 S. 17 amended by S.I. 1985/437, reg. 2

C6 Power to exclude conferred (26.4.1999) by S.I. 1998/3132, rules 47.8(3), 47.14

C7 S. 17 applied (E.W.) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 12(2), 458(1); S.I. 2003/333, art. 2, Sch.

C8 S. 17 applied (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 113(1), 279; S.I. 2003/1397, art. 2(1), Sch.

C9 S. 17 applied (S.) (6.4.2006) by Energy Administration (Scotland) Rules 2006 (S.I. 2006/772), rules 1, 34(2)

C10 S. 17 applied (E.W.) (30.11.2007) by PPP Administration Order Rules 2007 (S.I. 2007/3141), rules 1, 59(4) (with rule 3)

C11 S. 17 applied (1.10.2009) by Companies Act 2006 (c. 46), ss. 578(3), 1300(2); S.I. 2008/2860, art. 3(k) (with arts. 7, 8, Sch. 2 paras. 1, 56)

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- C12** S. 17 applied (E.W.S.) (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009 \(S.I. 2009/2477\)](#), rules 2, **88(4)** (with rules 3(2), 4)
- C13** S. 17 applied (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), **ss. 40(1)**, 211(2) (with ss. 29, 192, 193); [S.I. 2009/3250](#), art. 2(c)(i)
- C14** S. 17 applied (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 155(8)**, 182(5) (with s. 180); [S.I. 2010/816](#), art. 2, Sch. para. 11
- C15** S. 17 applied (E.W.) (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011 \(S.I. 2011/1301\)](#), rules 2, **150(3)(a)**, 168(7) (with rule 5(2))
- C16** S. 17 applied by [Education Act 1997 \(c. 44\)](#), ss. 32AD(3), 32BC(3) (as inserted (1.5.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 24(4)**(6), 82(3); [S.I. 2012/924](#), art. 3)
- C17** S. 17 applied by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 152C(3) (as inserted (1.5.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 23(5)**, 82(3); [S.I. 2012/924](#), art. 3)
- C18** S. 17 applied by [Companies Act 2006 \(c. 46\)](#), s. 1225G(1) (as substituted (2.7.2012) by [The Statutory Auditors \(Amendment of Companies Act 2006 and Delegation of Functions etc\) Order 2012 \(S.I. 2012/1741\)](#), arts. 1(2), 4)

18 Decrees and orders of courts of equity, &c. to have effect of judgments.

All decrees and orders of courts of equity, and all rules of courts of common law . . .
^{F14} whereby any sum of money, or any costs, charges, or expences, shall be payable to any person, shall have the effect of judgments in the superior courts of common law, and the persons to whom any such monies, or costs, charges, or expences, shall be payable, shall be deemed judgment creditors within the meaning of this Act; and all powers hereby given to the judges of the superior courts of common law with respect to matters depending in the same courts shall and may be exercised by courts of equity with respect to matters therein depending . . .^{F14} and all remedies hereby given to judgment creditors are in like manner given to persons to whom any monies, or costs, charges, or expences, are by such orders or rules respectively directed to be paid.

Textual Amendments

- F14** Words repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#) and [Mental Health Act 1959 \(c. 72\)](#), [Sch. 8, Pt. I](#)

19^{F15}

Textual Amendments

- F15** [S. 19](#) repealed by [Land Charges Act 1900 \(c. 26\)](#), [Sch.](#)

20^{F16}

Textual Amendments

- F16** [S. 20](#) repealed by [Civil Procedure Acts Repeal Act 1879 \(c. 59\)](#), [Sch. Pt. I](#)

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F17

Textual Amendments

F17 S. 21 repealed by Statute Law Revision (No. 2) Act 1874 (c. 96), Civil Procedure Acts Repeal Act 1879 (c. 59), Sch. Pt. I, Land Charges Act 1900 (c. 26), Sch. and Statute Law Revision Act 1950 (c. 6), Sch. 1

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F18

Textual Amendments

F18 S. 22 repealed by Administration of Justice Act 1965 (c. 2), Sch. 2

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F19

123.

Textual Amendments

F19 Ss. 23–123 repealed by Bankruptcy Repeal and Insolvent Court Act 1869 (c. 83), Sch.

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SCHEDULE TO WHICH THIS ACT REFERS.

No. 1.—Writ of Capias.

VICTORIA, &c. To the Sheriff *or* to the Constable of Dover Castle, *or* To the Mayor and Bailiffs of Berwick-Upon-Tweed [*or as the Case may be*], Greeting.

WE command you that you omit not by reason of any Liberty in your Bailwick, but that you enter the same, and take C.D. if he shall be found in your Bailwick, and him safely keep until he shall have given you Bail, or made Deposit with you according to Law in an Action or Promises [*or of Debt, &c*] at the Suit of A.B. , or until the said C.D. shall by other lawful Means be discharged from your Custody. And we do further command you that on Execution hereof you do deliver a Copy hereof to the said C.D. And we hereby require the said C.D. to take notice that within Eight Days after the Execution hereof on him, inclusive of the Day of such Execution, he should cause Special Bail to be put in for him in our Court of to the said Action, and that in default of so doing such Proceedings may be had and taken as are mentioned in the Warning written or endorsed hereon. And we do further command you, that immediately after the Execution hereof you do return this Writ to Our said Court of , together with the Manner in which you shall have executed the same, and the Day of the Execution thereof; or if the same shall remain unexecuted, then that you do so return the same at the Expiration of One Calendar Month from the Date hereof, or sooner if you shall be thereto required by Order of the said Court or by any Judge thereof. Witness at Westminster, [*or as the case may be,*] the Day of .

Memorandum to be subscribed to the Writ

This Writ is to be executed within One Calendar Month from the Date thereof, including the Day of such Date, and not afterwards.

A Warning to the Defendant.

If a Defendant, having given Bail on the Arrest, shall omit to put in Special Bail as required, the Plaintiff may proceed against the Sheriff or on the Bail Bond.

Indorsements to be made on the Writ.

Bail for Pounds by Order of [naming the Judge making the Order], dated this Day of .

This Writ was issued by E.F. of Attorney for the Plaintiff [*or Plaintiffs*] within named.

or,

This Writ was issued in person by the Plaintiff within named, who resides at [*mention the City, Town, or Parish, and also the Name of the Hamlet, Street, and Number of the House of the Plaintiff's Residence, if any such there be.*]

Status:

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Changes to legislation:

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