
STATUTORY INSTRUMENTS

1988 No. 2013

**Act of Sederunt (Proceedings in the Sheriff Court
under the Debtors (Scotland) Act 1987) 1988**

PART IV

DILIGENCE AGAINST EARNINGS

Earnings arrestment schedules

- 38.**—(1) An earnings arrestment schedule under section 47(2)(a) of the Act shall be in form 30.
- (2) An earnings arrestment schedule shall state—
- (a) the name, designation and address of the creditor, the debtor, the employer and any person residing in the United Kingdom to whom payment under the arrestment is to be made;
 - (b) the decree or other document constituting the debt and when, where and by whom it was granted or issued;
 - (c) the date on which any charge for payment was served; and
 - (d) the debt outstanding and the manner of its calculation.
- (3) There shall be attached to or reproduced upon the earnings arrestment schedule, and any copy intimated to the debtor, the terms of section 49(1) to (6) of, and Schedule 2 to, the Act.

Intimation of regulations made under section 49(7) of the Act

- 39.**—(1) The form of intimation to an employer under section 49(8) of the Act of regulations under Section 49(7) of the Act varying Tables A, B or C of Schedule 2 to the Act or the percentages specified in section 49(5) or (6)(a)(ii) of the Act shall be in form 31.
- (2) The form of intimation required under paragraph (1) of this rule shall specify—
- (a) the date of service of the earnings arrestment schedule;
 - (b) the name and address of the creditor, the debtor and the employer;
 - (c) that changes in the tables or percentages, as the case may be, have been made by regulations made by the Lord Advocate, the date when they were made and the date of their coming into force.
- (3) There shall be attached to or reproduced upon such a form of intimation the full text of the statutory deduction tables as varied by the regulations.

Applications for orders that earnings arrestments invalid etc.

- 40.**—(1) An application under section 50(1) of the Act for declarator that an earnings arrestment is invalid or has ceased to have effect shall be in form 32.
- (2) An application to which paragraph (1) of this rule applies shall state—

- (a) the name and address of the creditor, the debtor, the officer of court who served the earnings arrestment schedule and the person on whom the schedule was served;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the earnings arrestment proceeded;
 - (c) the date of service of the earnings arrestment schedule;
 - (d) the form of order sought;
 - (e) the reasons for the application; and
 - (f) any competent crave for expenses.
- (3) A copy of the earnings arrestment schedule shall, where practicable, be attached to such an application.
- (4) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor and, as appropriate, the debtor or the person on whom the earnings arrestment schedule was served and
 - (d) complete a certificate of intimation.

Determination of disputes as to operation of earnings arrestment

41.—(1) An application under section 50(3) of the Act for determination of any dispute as to the operation of an earnings arrestment shall be in form 33.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the creditor, the debtor, the officer of court who served the earnings arrestment schedule and the employer;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the earnings arrestment proceeded;
 - (c) the date of service of the earnings arrestment schedule;
 - (d) the subject matter of the dispute;
 - (e) the form of order sought, including any sum sought to be reimbursed or paid;
 - (f) any claim for interest and the date from which such interest should run; and
 - (g) any competent crave for expenses.
- (3) A copy of the earnings arrestment schedule shall, where practicable, be attached to such an application.
- (4) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and, as appropriate, the creditor, the debtor and the employer; and
 - (d) complete a certificate of intimation.
- (5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Current maintenance arrestment schedules

42.—(1) A current maintenance arrestment schedule under section 51(2)(a) of the Act shall be in form 34.

(2) A current maintenance schedule shall state—

- (a) the name, designation and address of the creditor, the debtor, the employee and any person residing in the United Kingdom to whom payment under the arrestment is to be made;
- (b) the maintenance order constituting the current maintenance, when and by whom it was granted or issued, and, where appropriate, details of its registration or confirmation;
- (c) the maintenance payable under the maintenance order by the debtor expressed as a daily rate;
- (d) where appropriate, the date of intimation made to the debtor under section 54(1) of the Act⁽¹⁾ and particulars of default; and
- (e) whether or not income tax falls to be deducted from the maintenance payable by the debtor.

(3) There shall be attached to or reproduced upon the current maintenance schedule, and any copy intimated to the debtor, the terms of section 53(1) and (2) of the Act.

Intimation of regulations made under section 53(3) of the Act

43.—(1) The form of intimation to an employer under section 53(4) of the Act of regulations under section 53(3) of the Act varying the sum specified in section 53(2)(b) of the Act shall be in form 35.

(2) The form of intimation required under paragraph (1) of these rules shall state—

- (a) the date of service of the current maintenance arrestment schedule;
- (b) the name and address of the creditor, the debtor and the employer; and
- (c) the new sum which is applicable in accordance with regulations made by the Lord Advocate, the date when they were made and the date of their coming into force.

Intimation of changes in small maintenance payments limits

44.—(1) The form of intimation to an employer under section 53(5) of the Act of a change in the small maintenance payments limits shall be in form 36.

(2) The form of intimation required under paragraph (1) of this rule shall specify—

- (a) the date of service of the current maintenance arrestment schedule;
- (b) the name and address of the creditor, the debtor and the employer; and
- (c) that changes have been made to section 351(2) of the Income and Corporation Taxes Act 1988⁽²⁾, what these changes are and the date of their coming into force.

(3) There shall be attached to or reproduced upon such a form of intimation the full text of section 351(2) of the Income and Corporation Taxes Act 1988.

Intimation to debtors prior to service of current maintenance arrestments

45.—(1) Intimation to a debtor under a maintenance order required by section 54(1)(a) of the Act prior to service of a current maintenance arrestment shall be in form 37.

(2) The form of intimation required under paragraph (1) of this rule shall state—

(1) 1987 c. 18
(2) 1988 c. 1

- (a) the name and address of the debtor and the creditor;
 - (b) where appropriate, details of the making, registration or confirmation of the maintenance order; and
 - (c) that the debtor has been ordered to pay the sum of maintenance awarded and the consequences of his failure to do so.
- (3) A copy of the relevant maintenance order shall be attached to such a form of intimation.
- (4) The creditor shall, where the debtor resides in the United Kingdom, intimate to the debtor by posting such a form of intimation in a recorded delivery envelope addressed to him, and where the debtor resides outside the United Kingdom such intimation shall be by any other competent method of service.
- (5) The creditor shall prepare and retain an execution of such a form of intimation while the current maintenance arrestment remains in force.

Applications for orders that current maintenance arrestments are invalid etc.

46.—(1) An application under section 55(1) of the Act for declarator that a current maintenance arrestment is invalid or has ceased to have effect shall be in form 38.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the creditor, the debtor, the officer of court who served the current maintenance arrestment schedule and the person on whom the schedule was served;
 - (b) the maintenance order and when, where and by whom it was granted or issued and, where appropriate, details of its registration or confirmation;
 - (c) the date of service of the current maintenance arrestment schedule;
 - (d) the reasons for seeking the order;
 - (e) the form of order sought; and
 - (f) any competent crave for expenses.
- (3) A copy of the current maintenance arrestment schedule shall, where practicable, be attached to such an application.
- (4) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor and, as appropriate, the debtor or the person on whom the current maintenance arrestment schedule was served; and
 - (d) complete a certificate of intimation.

Recall of current maintenance arrestments

47.—(1) An application under section 55(2) of the Act for recall of a current maintenance arrestment shall be in form 39.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the creditor, the debtor, the officer of court who served the current maintenance arrestment schedule and the employer;
 - (b) the maintenance order and when, where and by whom it was granted or issued and, where appropriate, details of its registration or confirmation;
 - (c) the date of service of the current maintenance arrestment schedule;

- (d) such information as the applicant considers appropriate to satisfy the sheriff that he will not default again in paying maintenance;
 - (e) the order sought; and
 - (f) any competent crave for expenses.
- (3) A copy of the current maintenance arrestment schedule shall, where practicable, be attached to such an application.
- (4) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and the creditor; and
 - (d) complete a certificate of intimation.

Determination of disputes as to operation of current maintenance arrestments

48.—(1) An application under section 55(5) of the Act for determination of any dispute as to the operation of a current maintenance arrestment shall be in form 40.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the creditor, the debtor, the officer of court who served the current maintenance arrestment schedule and the employer;
 - (b) the maintenance order and when, where and by whom it was granted or issued and, where appropriate, details of its registration or confirmation;
 - (c) the date of service of the current maintenance arrestment schedule;
 - (d) the subject matter of the dispute;
 - (e) the form of order sought, including any sum sought to be reimbursed or paid;
 - (f) any claim for interest and the date from which such interest should run; and
 - (g) any competent crave for expenses.
- (3) A copy of the current maintenance arrestment schedule shall, where practicable, be attached to such an application.
- (4) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and, as appropriate, the creditor, the debtor and the employer; and
 - (d) complete a certificate of intimation.

Intimation by sheriff clerk where non-Scottish maintenance order ceases to have effect

49. Where a maintenance order pronounced outwith Scotland and registered in a sheriff court for enforcement in Scotland ceases to have effect because the debtor no longer resides in Scotland, the sheriff clerk of that court shall, so far as reasonably practicable, intimate those facts—

- (a) where a current maintenance arrestment is in force, to the person upon whom the current maintenance arrestment schedule was served; and
- (b) where a conjoined arrestment order is in force, to the sheriff clerk to whom payments require to be made by the employer in terms of such order.

Intimation by creditor under section 57(4) of the Act

50. Intimation by the creditor to an employer required by section 57(4) of the Act shall be in writing.

Applications by debtors for payment by creditors

51.—(1) An application under section 57(6) of the Act by a debtor for an order requiring a creditor to pay an amount not exceeding twice the amount recoverable by the debtor under section 57(5) of the Act shall be in form 41.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the debtor, the creditor, the officer of court who served the arrestment and the employer;
- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which arrestment proceeded;
- (c) the amount of the debt or the sum to be deducted from the debtor's earnings;
- (d) where appropriate, the expenses of diligence;
- (e) where appropriate, whether the debt recoverable under the earnings arrestment is paid or otherwise extinguished and, if so, from what date and in what circumstances;
- (f) where appropriate, whether the current maintenance arrestment has ceased to have effect and, if so, from what date and in what circumstances;
- (g) where appropriate, whether the debt being enforced by the earnings arrestment has ceased to be enforceable by diligence and, if so, from what date and in what circumstances;
- (h) the calculation showing the sum alleged to have been received by the creditor in excess of entitlement;
- (i) the sum sought from the creditor and the grounds for seeking such sum; and
- (j) any competent crave for expenses.

(3) A copy of the relevant arrestment schedule shall, where practicable, be attached to such an application.

(4) On the lodging of such an application the sheriff clerk shall—

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the applicant and to the creditor; and
- (d) complete a certificate of intimation.

(5) The sheriff clerk shall intimate the sheriff's decision in such an application to the creditor if the creditor was not present when the application was determined.

Applications by second creditors for information

52.—(1) An application by a second creditor under section 59(5) of the Act for an order to ordain an employer to give information relating to any other earnings arrestment or current maintenance arrestment to the second creditor shall be in form 42.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the applicant, the debtor, the employer and the officer of court who served the arrestment schedule in respect of the debt due to the applicant;
- (b) the date of service of the applicant's earnings arrestment or current maintenance arrestment schedule;

- (c) that the arrestment did not come into effect by virtue of section 59 of the Act;
 - (d) the information required by the applicant and which he alleges has not been provided by the employer;
 - (e) the order sought; and
 - (f) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and the employer; and
 - (d) complete a certificate of intimation.
- (4) The sheriff clerk shall intimate the sheriff's decision in such an application to the employer if the employer was not present when the application was determined.

Applications for conjoined arrestment orders

53.—(1) An application under section 60(2) of the Act by a qualified creditor for a conjoined arrestment order shall be in form 43.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the applicant, the debtor, the employer and any person residing in the United Kingdom to whom payment is to be made in respect of the applicant's debt;
 - (b) such information relating to the debt due to the applicant as would require to be specified in an earnings arrestment schedule or, as the case may be, a current maintenance arrestment schedule;
 - (c) in respect of each earnings arrestment or current maintenance arrestment already in effect against the debtor in the hands of the same employer—
 - (i) the name and address of the creditor;
 - (ii) the date and the place of the execution of such arrestments; and
 - (iii) the debt recoverable specified in the earnings arrestment schedule or, as the case may be, the daily rate of maintenance specified in the current maintenance Schedule; and
 - (d) the expenses of the application.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) intimate the application, together with a form of notice and response in form 44, to the debtor and any other creditor of the debtor already enforcing a debt by an earnings arrestment or current maintenance arrestment in the hands of the same employer; and
 - (b) complete a certificate of intimation.
- (4) Where a creditor or the debtor intends to object to such an application, he shall complete and lodge with the sheriff clerk the form of notice and response in form 44 within 14 days after the date of intimation.
- (5) On receipt of such a form of notice and response the sheriff clerk shall fix a date for a hearing and intimate the date to the applicant and any person who received intimation of the application.
- (6) Where such a form of notice and response is not timeously lodged with the sheriff clerk, the sheriff may grant the application or may make such other order as he considers appropriate.

Conjoined arrestment orders

54.—(1) A conjoined arrestment order shall be in form 45.

(2) A conjoined arrestment order shall—

- (a) specify any earnings arrestment or current maintenance arrestment in effect against the earnings of the debtor in the hands of the same employer;
- (b) notify the employer that he must deduct a sum calculated in accordance with section 63 of the Act(3) from the debtor's net earnings on any pay day and to pay the sum deducted to the sheriff clerk as soon as is reasonably practicable for so long as the order is in effect;
- (c) specify, as appropriate, the amount recoverable in respect of the debt or debts and the maintenance, expressed as a daily rate or aggregate of the daily rates;
- (d) state the address of the sheriff clerk to whom payments are to be sent and, where appropriate, a court reference number; and
- (e) if appropriate, include an award of expenses.

(3) The sheriff clerk shall serve a copy of the conjoined arrestment order (or such final order of the sheriff in an application under rule 53 above) on the applicant, the employer, the debtor and the creditors in any earnings arrestment or current maintenance arrestment recalled by the order.

(4) There shall be attached to or reproduced upon every copy conjoined arrestment order as served on any person the full text of section 63(1) to (6) of the Act.

(5) There shall be enclosed with a conjoined arrestment order served on any person a notice in form 46 which shall require all creditors whose arrestments have been recalled to inform the sheriff clerk, within 14 days of the date of service of the notice, of the name and address of the person within the United Kingdom to whom payments should be made in respect of his debt.

(6) Subject to paragraphs (7) and (8) of this rule, service under this rule shall be by recorded delivery post.

(7) Where such service has been unsuccessful, reservice—

- (a) in the case of service on the employer, shall be effected by an officer of court on payment of his fee by the applicant; and
- (b) in any other case of service on a person within the United Kingdom, shall be by ordinary first class post.

(8) Service under this rule on a person outside the United Kingdom which cannot be effected by recorded delivery post shall be by any other competent method of service.

Applications by sheriff clerks for warrants for diligence

55.—(1) An application by a sheriff clerk under section 60(9)(c) of the Act for a warrant for diligence against an employer for recovery of sums which are claimed to be due shall be in form 47.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the sheriff clerk, the employer, the debtor and the creditors under the conjoined arrestment order;
- (b) the date of the conjoined arrestment order and details of its service on the employer;
- (c) the sum claimed to be due by the employer and details of its calculation; and
- (d) the circumstances in which the sum is said to be due and, if appropriate, any reasons given to the sheriff clerk for its not having been paid.

(3) On preparing such an application the sheriff clerk shall—

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the employer, the debtor and the creditors under the conjoined arrestment order; and
- (d) complete a certificate of intimation.

Applications by creditors for information under section 62 of the Act

56.—(1) An application by a creditor under section 62(4) of the Act for an order for information which an employer requires to provide in accordance with section 62(2) or (3) of the Act shall be in form 48.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the applicant, the debtor, the employer and the officer of court who served the arrestment schedule in respect of the debt due to the applicant;
 - (b) the date of service of the applicant's earnings arrestment or current maintenance arrestment schedule;
 - (c) the reason for that arrestment not coming into effect or ceasing to have effect;
 - (d) the information required by the applicant and which he alleges has not been provided by the employer; and
 - (e) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and the employer; and
 - (d) complete a certificate of intimation.

(4) The sheriff clerk shall intimate the sheriff's decision on such an application to the employer if the employer was not present when the application was determined.

Application for variation of conjoined arrestment orders

57.—(1) An application under section 62(5) of the Act for variation of a conjoined arrestment order by a creditor whose debt is not being enforced under a conjoined arrestment order but would, but for the order, be entitled to enforce the debt by an earnings arrestment or current maintenance order shall be in form 49.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the applicant, the debtor, the employer and any person residing in the United Kingdom to whom payment is to be made in respect of the applicant's debt;
 - (b) the date of the conjoined arrestment order;
 - (c) such information relating to the debt due to the applicant as would require to be specified in an earnings arrestment schedule or, as the case may be, a current maintenance arrestment schedule; and
 - (d) the expenses of the application.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) intimate the application together with a form of notice and response in form 50 to the debtor and any creditor whose debt is being enforced under the conjoined arrestment order; and

- (b) complete a certificate of intimation.
- (4) Where a creditor or the debtor wishes to object to such an application, he shall complete and lodge with the sheriff clerk the form of notice and response in form 50 within 14 days after the date of intimation.
- (5) On receipt of such a form of notice and response, the sheriff clerk shall fix a date for a hearing and intimate the date to the applicant and to those who received intimation of the application.
- (6) Where such a form of notice and response is not timeously lodged with the sheriff clerk, the sheriff may grant the application or may make such other order as he considers appropriate.
- (7) Where an application to which paragraph (1) of this rule applies has been granted, there shall be served by the sheriff clerk with the sheriff's decision—
 - (a) a copy of the conjoined arrestment order as varied; and
 - (b) a notice in form 51.
- (8) Subject to paragraphs (9) and (10) of this rule, service under this rule and section 62(6) of the Act shall be by recorded delivery post.
- (9) Where such service has been unsuccessful, reservice—
 - (a) in the case of service on the employer, shall be effected by an officer of court on payment of his fee by the applicant; and
 - (b) in any other case of service on a person within the United Kingdom, shall be by ordinary first class post.
- (10) Service under this rule and section 62(6) of the Act on a person outside the United Kingdom which cannot be effected by recorded delivery post shall be by any other competent method of service.

Intimation of changes to calculation of sum payable by employer

- 58.**—(1) Intimation by the sheriff clerk to an employer operating a conjoined arrestment order—
- (a) under section 63(7) of the Act, shall be in form 52; or
 - (b) under section 63(8) of the Act, shall be in form 53.
- (2) A form of intimation required under paragraph (1) of this rule shall state—
- (a) the date of the conjoined arrestment order and any variation of it and the date of service of it on the employer;
 - (b) the name and address of the debtor, the employer and the sheriff clerk; and
 - (c) that changes to—
 - (i) Tables A, B and C of Schedule 2 to the Act;
 - (ii) the percentages specified in section 49(5) and (6)(a)(ii) of the Act;
 - (iii) the sums specified in section 63(4)(b) of the Act; or
 - (iv) the small maintenance payments limits mentioned in section 65(1A) of the Income and Corporation Taxes Act 1970 have been made and the date when they were made and of their coming into force.
- (3) There shall be attached to or reproduced upon form 52 the full text of the appropriate provisions of the Act.
- (4) There shall be attached to or reproduced upon form 53 the full text of section 351(2) of the Income and Corporation Taxes Act 1988.

Determination of disputes as to operation of conjoined arrestment orders

59.—(1) An application under Section 65(1) of the Act for determination of any dispute as to the operation of a conjoined arrestment order shall be in form 54.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the applicant, the debtor, the creditors whose debts are being enforced by the conjoined arrestment order, the employer and the sheriff clerk;
 - (b) the date of the conjoined arrestment order and the court which made the order;
 - (c) the subject matter of the dispute;
 - (d) the order sought, including details of any sum for which reimbursement or repayment is sought;
 - (e) any claim for interest and the date from which such interest shall run; and
 - (f) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and, as appropriate, the debtor, the creditors whose debts are being enforced by the conjoined arrestment order and the employer; and
 - (d) complete the certificate of intimation.

(4) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Applications for payment by creditors to debtors

60.—(1) An application under section 65(7) of the Act for an order requiring the creditor to pay to the debtor a sum not exceeding twice the sum recoverable by the sheriff clerk in accordance with section 65(6) of the Act shall be in form 55.

- (2) An application in which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the debtor and creditor;
 - (b) the date of the conjoined arrestment order and the court which made the order;
 - (c) whether, in the case of an ordinary debt, the debt has been paid, otherwise extinguished or has ceased to be enforceable by diligence and also why and from what date;
 - (d) whether, in the case of current maintenance, the obligation to pay maintenance has ceased or has ceased to be enforceable by diligence and if so why and from what date;
 - (e) the calculation showing the sum alleged to have been received by the creditor in excess of entitlement;
 - (f) the sum sought from the creditor;
 - (g) the applicant's grounds for seeking such sum;
 - (h) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and the creditor; and

(d) complete a certificate of intimation.

(4) The sheriff clerk shall intimate the sheriff's decision on such an application to the creditor if the creditor was not present when the application was determined.

Recall of conjoined arrestment orders under section 66(1)(a) of the Act

61.—(1) An application under section 66(1)(a) of the Act by a debtor, creditor, employer, sheriff clerk or interim, or permanent, trustee in the debtor's sequestration for recall of a conjoined arrestment order shall be in form 56.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the debtor, the creditors whose debts are being enforced under the conjoined arrestment order, the person on whom a copy of the order or an order varying the order was served under section 60(7) or 62(6) of the Act, any trustee in the debtor's sequestration and the sheriff clerk to whom payment is made under the order;
- (b) the date of the conjoined arrestment order and the court which made the order;
- (c) if appropriate, that the conjoined arrestment order is invalid and why it is claimed to be invalid;
- (d) if appropriate, that all ordinary debts enforced by the order have been paid or otherwise extinguished or have ceased to be enforceable and in each case when and how this occurred;
- (e) if appropriate, that all obligations to pay current maintenance enforced by the order have ceased or have ceased to be enforceable by diligence and in either case when and how this occurred;
- (f) if appropriate, that the debtor's estate has been sequestrated and when this occurred;
- (g) the order sought and any consequential order; and
- (h) any competent crave for expenses.

(3) Subject to paragraph (4) of this rule, on the lodging of such an application the sheriff clerk shall—

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the applicant and, as appropriate, the debtor, the creditors whose debts are being enforced under the order, the person on whom a copy of the order or an order varying the order was served under section 60(7) or 62(6) of the Act and the interim, or permanent, trustee in the debtor's sequestration; and
- (d) complete a certificate of intimation.

(4) Where such an application has been made by all of the creditors whose debts are being enforced by the conjoined arrestment order or where the sheriff clerk has previously received intimation from all of those creditors as to the matters referred to in section 66(1)(a)(ii) of the Act, the sheriff may grant the application without requiring intimation or any hearing of the application.

Recall of conjoined arrestment orders under section 66(1)(b) of the Act

62.—(1) An application under section 66(1)(b) of the Act by all creditors whose debts are being enforced for recall of a conjoined arrestment order shall be in form 57.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the names and addresses of the applicants and the debtors; and
- (b) the date of the conjoined arrestment order and the court which made the order;

- (c) the reasons for the application; and
- (d) any consequential order sought.

(3) On the lodging of such an application the sheriff may grant it immediately or may make such other order as he considers appropriate.

Applications for variation of conjoined arrestment orders

63.—(1) An application under section 66(4) of the Act⁽⁴⁾ for variation of a conjoined arrestment order shall be in form 58.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the debtor, the employer, the creditors whose debts are being enforced by the conjoined arrestment order and the sheriff clerk;
 - (b) the date of the conjoined arrestment order and the court which made the order;
 - (c) if appropriate, that any ordinary debt being enforced by the order has been paid, otherwise extinguished or has ceased to be enforceable by diligence and in each case when and how this occurred;
 - (d) if appropriate, that an order or decree varying, superseding or recalling any maintenance order has come into effect and when and by whom the order or decree was granted;
 - (e) if appropriate, that an obligation to pay maintenance has ceased or has ceased to be enforceable in Scotland and in either case when or how this occurred;
 - (f) the order sought; and
 - (g) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant and, as appropriate, to the debtor, the creditors whose debts are being enforced by the conjoined arrestment order and the employer; and
 - (d) complete a certificate of intimation.

Requests by creditors to cease enforcement of debts by conjoined arrestment orders

64.—(1) A request by a creditor to the sheriff under section 66(6) of the Act to vary a conjoined arrestment order, by ordering that a debt being enforced by him under it shall cease to be so enforced, shall be in writing.

(2) The sheriff may grant or refuse such a request or may make such order as he considers appropriate.

Service of sheriff's decision in applications for recall or variation of conjoined arrestment orders

65.—(1) Subject to the following paragraphs of this rule, the final order of the sheriff in an application to which rule 61, 62, 63 or 64 applies shall be served upon the applicant, the employer, the debtor and the creditors whose debts are being enforced under the conjoined arrestment order by recorded delivery post.

- (2) Where such service has been unsuccessful, reservice—

(4) 1987 c. 18

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- (a) in the case of service on the employer, shall be effected by an officer of court on payment of his fee by the applicant; and
 - (b) in any other case of service on a person within the United Kingdom, shall be by ordinary first class post.
- (3) Where an application for variation of a conjoined arrestment order to which rule 63 above applies has been granted, there shall be served by the sheriff clerk with the final order—
- (a) a copy of the conjoined arrestment order as varied; and
 - (b) a notice in form 59.
- (4) Service under this rule on a person outwith the United Kingdom which cannot be effected by recorded delivery post shall be by any other competent method of service.

Service by post of arrestments against earnings

66. On the face of the envelope used for service of an earnings arrestment schedule, a current maintenance arrestment schedule or a conjoined arrestment order there shall be written or printed the following notice—

“ARRESTMENT OF EARNINGS OF AN EMPLOYEE

This letter contains an earnings arrestment schedule/current maintenance arrestment schedule/
conjoined arrestment order. If delivery of the letter cannot be made at the address shown it is to
be returned immediately to (name and address).”.

Certificates of execution

67. The certificate of execution of an earnings arrestment or a current maintenance arrestment shall be in form 60.