

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Arrestments and Poidings is up to date with all changes known to be in force on or before 27 June 2024.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)

SCHEDULES

SCHEDULE 7

PART II

RE-ENACTMENT OF CERTAIN PROVISIONS OF BANKRUPTCY (SCOTLAND) ACT 1913 (C. 20)

Arrestments and Poidings

- 24 (1) Subject to sub-paragraph (2) below, all arrestments and [F¹attachments] which have been executed within 60 days prior to the constitution of the apparent insolvency of the debtor, or within four months thereafter, shall be ranked *pari passu* as if they had all been executed on the same date.
- (2) Any such arrestment which is executed on the dependence of an action shall be followed up without undue delay.
- (3) Any creditor judicially producing in a process relative to the subject of such arrestment or [F²attachment] liquid grounds of debt or decree of payment within the 60 days or four months referred to in sub-paragraph (1) above shall be entitled to rank as if he had executed an arrestment or [F³an attachment] ; and if the first or any subsequent arrester obtains in the meantime a decree of furthcoming, and recovers payment, or [F⁴an attaching] creditor carries through [F⁵an auction][F⁶or receives payment in respect of [F⁷attached] article upon its redemption], he shall be accountable for the sum recovered to those who, by virtue of this Act, may be eventually found to have a right to a ranking *pari passu* thereon, and shall be liable in an action at their instance for payment to them proportionately, after allowing out of the fund the expense of such recovery.
- (4) Arrestments executed for attaching the same effects of the debtor after the period of four months subsequent to the constitution of his apparent insolvency shall not compete with those within the said periods prior or subsequent thereto, but may rank with each other on any reversion of the fund attached in accordance with any enactment or rule of law relating thereto.
- (5) Any reference in the foregoing provisions of this paragraph to a debtor shall be construed as including a reference to an entity whose apparent insolvency may, by virtue of subsection [F⁸(4)] of section 7 of this Act, be constituted under subsection (1) of that section.
- (6) This paragraph shall apply in respect of arrestments and poidings which have been executed either before or after the coming into force of this paragraph.
- (7) The repeal of the Bankruptcy (Scotland) Act 1913 shall not affect the equalisation of arrestments and poidings (whether executed before or after the coming into force of this paragraph) in consequence of the constitution of notour bankruptcy under that Act.

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[^{F9}(8) Nothing in this paragraph shall apply to an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order.]

Textual Amendments

- F1 Word in Sch. 7 para. 24(1) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 15\(5\)\(a\)](#)
- F2 Word in Sch. 7 para. 24(3) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 15\(5\)\(b\)\(i\)](#)
- F3 Words in Sch. 7 para. 24(3) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 15\(5\)\(b\)\(ii\)](#)
- F4 Words in Sch. 7 para. 24(3) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 15\(5\)\(b\)\(iii\)](#)
- F5 Words in Sch. 7 para. 24(3) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 15\(5\)\(b\)\(iv\)](#)
- F6 Words inserted by [Debtors \(Scotland\) Act 1987 \(c.18, SIF 45:2\)](#), s. 108(1)(2), Sch. 6 para. 28(a), Sch. 7 paras. 5, [9\(1\)](#)
- F7 Words in Sch. 7 para. 24(3) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), s. 61, [Sch. 3 Pt. 1 para. 15\(5\)\(b\)\(v\)](#)
- F8 Word in Sch. 7 para. 24(5) substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 62](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F9 Words added by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), s. 108(1)(2), Sch. 6 para. 28(b), Sch. 7 paras. 5, [9\(1\)](#)

Modifications etc. (not altering text)

- C1 Sch. 7 para. 24 excluded by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), ss. 67, 108(2), Sch. 7 paras. 5, [9\(1\)](#)

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