



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART III

DILIGENCE AGAINST EARNINGS

General

57 Failure to comply with arrestment, manner of payment and creditor's duty when arrestment ceases to have effect.

- (1) Subject to section 69(4) of this Act, where an employer fails to comply with an earnings arrestment or a current maintenance arrestment—
 - (a) he shall be liable to pay to the creditor any sum which he would have paid to him under section 47(1) or 51(1) of this Act if he had so complied; and
 - (b) he shall not be entitled to recover any sum which he has paid to the debtor in contravention of the arrestment.
- (2) Subject to subsection (3) below, a creditor shall not be entitled to refuse to accept payment under section 47(1) or 51(1) of this Act which is tendered by cheque or by such other method as may be prescribed by Act of Sederunt.
- (3) If a cheque tendered in payment under section 47(1) or 51(1) of this Act is dishonoured or for any other reason the method of payment used by the employer is ineffectual, the creditor may insist that the payment concerned and any future payment under that provision shall be tendered in cash.
- (4) Where—
 - (a) the debt recoverable under an earnings arrestment is paid or otherwise extinguished;
 - (b) a current maintenance arrestment ceases to have effect under section 55(8) above; or
 - (c) the debt being enforced by an earnings arrestment ceases to be enforceable by diligence,

Status: Point in time view as at 01/04/2008.

Changes to legislation: Debtors (Scotland) Act 1987, Section 57 is up to date with all changes known to be in force on or before 11 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)

the creditor shall, as soon as is reasonably practicable, intimate that fact to the employer.

(5) Where an event mentioned in subsection (4) above occurs, any sum paid by an employer—

- (a) under an earnings arrestment, in excess of the debt recoverable; or
- (b) under a current maintenance arrestment, in excess of the sum to be deducted under section 51(1) of this Act,

shall be recoverable by the debtor from the creditor with interest on that sum at the specified rate.

(6) Without prejudice to subsection (5) above, where a creditor has failed to comply with subsection (4) above the sheriff, on an application by the debtor, may make an order requiring the creditor to pay to the debtor an amount not exceeding twice the amount recoverable by the debtor under the said subsection (5).

Modifications etc. (not altering text)

- C1** S. 57(4) modified (1.4.2008) by [The Enforcement of Fines \(Diligence\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/104\)](#), regs. 1(1), **2(b)(ii)**

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