



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART III

DILIGENCE AGAINST EARNINGS

Conjoined arrestment orders

60 Conjoined arrestment orders: general provision.

- (1) This section applies where at the date of an application under subsection (2) below—
 - (a) there is in effect against the earnings of a debtor in the hands of a single employer an earnings arrestment or a current maintenance arrestment or (under section 58 of this Act) both; and
 - (b) a creditor, who may be a creditor already enforcing a debt by an arrestment mentioned above, (referred to in this section as “a qualified creditor”) would be entitled, but for section 59(1) or (2) of this Act, to enforce his debt by executing an earnings arrestment or a current maintenance arrestment.
- (2) Subject to subsection (4) below, where this section applies the sheriff, on an application made by a qualified creditor, shall make a conjoined arrestment order.
- (3) A conjoined arrestment order shall—
 - (a) recall any arrestment mentioned in subsection (1)(a) above so that it shall cease to have effect on the coming into effect of the order; and
 - (b) require the employer concerned, while the order is in effect, to deduct a sum calculated in accordance with section 63 of this Act from the debtor’s net earnings on any pay-day and to pay it as soon as is reasonably practicable to the sheriff clerk.
- (4) It shall not be competent to make a conjoined arrestment order—
 - (a) where all the debts concerned are maintenance payable by the same debtor to the same person (whether for his own benefit or for another person’s) so that, if the existing current maintenance arrestment were abandoned, they could all be enforced under section 52(2)(a) of this Act; or

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: Debtors (Scotland) Act 1987, Section 60 is up to date with all changes known to be in force on or before 04 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)

- (b) where there are only 2 debts, one an ordinary debt and one maintenance, so that they could be enforced under section 58(1) of this Act (one earnings arrestment and one current maintenance arrestment); or
 - (c) where the same person is the creditor or person to whom any maintenance is payable (as described in paragraph (a) above) in relation to all the debts sought to be enforced by the order.
- (5) A conjoined arrestment order—
 - (a) shall come into effect 7 days after a copy of it has been served on the employer under subsection (7) below; and
 - (b) shall remain in effect until a copy of an order recalling the conjoined arrestment order has been served on the employer under section 66(7) of this Act or the debtor ceases to be employed by him.
- (6) A conjoined arrestment order shall be in the form prescribed by Act of Sederunt, and—
 - (a) where an ordinary debt is to be enforced, the order shall specify the amount recoverable in respect of the debt under the order; and
 - (b) where current maintenance is to be enforced, the order shall specify the maintenance expressed as a daily rate or, as the case may be, as an aggregate of the daily rates; and subsection (5) of section 51 of this Act shall apply for the purposes of this paragraph as it applies for the purposes of subsection (4) of that section.
- (7) The sheriff clerk shall as soon as is reasonably practicable serve a copy of the conjoined arrestment order on the employer and the debtor, and on the creditor in every arrestment mentioned in subsection (1)(a) above.
- (8) A decision of the sheriff making a conjoined arrestment order shall not be subject to appeal.
- (9) Subject to section 69(4) of this Act, where an employer fails to comply with a conjoined arrestment order—
 - (a) the employer shall be liable to pay to the sheriff clerk any sum which he would have paid if he had so complied;
 - (b) the employer shall not be entitled to recover any sum which he has paid to the debtor in contravention of the order; and
 - (c) the sheriff, on an application by the sheriff clerk, may grant warrant for diligence against the employer for recovery of the sums which appear to the sheriff to be due.

Status:

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