



Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

1951 CHAPTER 65 14 and 15 Geo 6

PART I

PROTECTION AGAINST CERTAIN LEGAL REMEDIES

Provisions as to England and Wales

2 General restrictions on execution and other remedies.

- (1) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to proceed, except with the leave of the appropriate court, to execution on, or otherwise to the enforcement of, a judgment or order of any court other than a county court (whether given or made before or after the commencement of this Act) for the payment or recovery of a sum of money:

Provided that nothing in this subsection shall apply to—

- (a) a judgment for the recovery of damages for tort;
- (b) a judgment or order for the recovery of a debt which has become due by virtue of a contract made after the relevant date;
- (c) a judgment or order under which no sum of money is recoverable otherwise than in respect of costs;
- [^{F1}(d) an order for alimony, maintenance or other payment made under sections 21 to 33 of the Matrimonial Causes Act 1973 or made, or having effect as if made, under Schedule 1 to the Children Act 1989.]
- (e) an order made in criminal proceedings, or an order made in proceedings for the recovery of a penalty in respect of a contravention of, or failure to comply with, any provisions of an Act; or to the enforcement of any other judgment or order by judgment summons.

Status: Point in time view as at 03/07/2002. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, Section 2. (See end of Document for details)

- (2) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, except with the leave of the appropriate court—
- (a) to proceed to exercise any remedy which is available to him by way of—
 - the levying of distress;
 - the taking of possession of any property;
 - the appointment of a receiver of any property;
 - re-entry upon land;
 - the realisation of a security; or
 - the forfeiture of a deposit; or
 - (b) to institute proceedings for foreclosure or for sale in lieu of foreclosure, or for the recovery of possession of mortgaged property, or to take any step in any such proceedings instituted before the relevant date:

Provided that this subsection shall not apply to any remedy or proceedings available in consequence of default in the payment of a debt arising by virtue of a contract made after the relevant date or the performance of an obligation so arising; and nothing in this subsection shall affect—

- (i) a power of sale of a mortgagee of land or an interest in land who is in possession of the mortgaged property at the relevant date, or who before that date has appointed a receiver who at that date is in possession, or in receipt of the rents and profits, of the mortgaged property; or
 - (ii) a power of sale of a mortgagee in possession of property other than land or some interest in land, where the power of sale has arisen and notice of the intended sale has been given before the relevant date; or
 - (iii) a right or power of a pawnbroker to deal with a pledge; or
 - (iv) any right or power of a person to sell goods in his custody as a bailee, being a right or power arising by reason of default in the payment of a debt; or
 - (v) the institution or prosecution of proceedings for the appointment by the court of a receiver of any property.
- (3) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to proceed, except with the leave of the appropriate court, to execution on, or otherwise to the enforcement of, a judgment or order of any court (whether given or made before or after the commencement of this Act) for the recovery of possession of land in default of payment of rent or for the delivery of any property other than mortgaged property by reason of a default in the payment of money:

Provided that nothing in this subsection shall apply to a judgment given or order made in proceedings for the enforcement of a contract made after the relevant date.

- (4) If, on any application for such leave as is required under this section for the exercise of any of the rights and remedies mentioned in subsections (1), (2) and (3) of this section, the appropriate court is of opinion that the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is unable immediately to do so by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service, the court may, subject to the provisions of this Part of this Act, refuse leave for the exercise of that right or remedy, or give leave therefor subject to such restrictions and conditions as the court thinks proper.

Status: Point in time view as at 03/07/2002. This version of this provision has been superseded.

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(5) The appropriate court, in determining for the purpose of the last foregoing subsection whether a person is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of any such circumstances as are mentioned in that subsection, or in determining the restrictions and conditions (if any) subject to which leave is to be given under that subsection, may take account of other liabilities, whether present or future, of his.

(6) Where—

(a) a bankruptcy petition has been presented against a debtor, and it is shown to the satisfaction of the court having jurisdiction in the bankruptcy that his inability to pay his debts is due to circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service; ^{F2} . . .

^{F2}(b)

the court may at any time stay the proceedings under the petition for such time and subject to such conditions as the court thinks fit.

^{F2} . . .

Textual Amendments

F1 S. 2(1)(d) substituted by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 12** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F2 Words in s. 2(6), s. 2(6)(b) and the preceding word “or” repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. V** Group1.

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