

Law Reform (Diligence) (Scotland) Act 1973

1973 CHAPTER 22

An Act to amend the law of Scotland relating to diligence; to exempt from diligence certain household effects and furniture; and for purposes connected with the matters aforesaid. [23rd May 1973]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Exemption of essential household furniture, etc., from poinding.

1.—(1) An article shall not be liable to be poinded at the instance of a creditor in respect of a debt due to him by a debtor if—

(*a*) it is an article to which this section applies, and

(*b*) being at the time of the poinding in a dwellinghouse in which the debtor is residing, it is reasonably necessary to enable him and any person living in family with him in that dwellinghouse to continue to reside there without undue hardship.

(2) This section shall apply to articles of any of the following descriptions, that is to say—

beds or bedding material;

chairs;

tables;

furniture or plenishings providing facilities for cooking, eating or storing food;

furniture or plenishings providing facilities for heating.

(3) The Secretary of State may by order amend subsection (2) above (whether as originally enacted or as amended by an order previously made under this subsection) by adding any item to, or deleting any item from, that subsection or by varying any of the items specified therein; and any order under this subsection shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made thereunder.

(4) Where any article is poinded in respect of a debt, then, without prejudice to any other remedy available to him, the debtor may within seven days from the date of the poinding appeal to the sheriff on the ground that, by virtue of the foregoing provisions of this section, the said article is not liable to be poinded, and the sheriff shall, if he allows the appeal, order the article to be released from the poinding; and the decision of the sheriff on any such appeal shall not be subject to review.

1947 c. 43. (5) Section 249(2) of the Local Government (Scotland) Act 1947 (which provides that proceedings under a warrant for the recovery of rates are not to be questioned except in accordance with subsection (1) of that section) shall not prevent the taking of any appeal under subsection (4) above.

1837 c. 41. (6) Notwithstanding anything contained in section 20 of the Small Debt (Scotland) Act 1837 (which among other things lays down the procedure for poinding and sale on a decree granted in sheriff's small debt court), no article poinded in execution of such a decree, being an article to which this section applies, shall be sold in pursuance of the said section 20 before the expiry of seven days from the date of the poinding or, if an appeal is taken under subsection (4) above in respect of that article, until that appeal is determined or otherwise disposed of.

(7) Nothing in this section shall prejudice the operation of any enactment or rule of law by virtue of which articles of any description are not liable to be poinded in respect of a debt.

1960 c. 62. (8) In this section "dwellinghouse" includes a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960.

Short title, commencement and extent.

2.—(1) This Act may be cited as the Law Reform (Diligence) (Scotland) Act 1973.

(2) This Act shall come into operation at the expiration of the period of three months beginning with the day on which it is passed.

(3) This Act shall extend to Scotland only.