



Isle of Man

Ellan Vannin

AT 1 of 1953

ACTION OF ARREST ACT 1953



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**Isle of Man***Ellan Vannin*

ACTION OF ARREST ACT 1953

Received Royal Assent: 11 February 1953
Passed: 17 March 1953
Commenced: 17 March 1953

AN ACT to abolish Chancery Arrests and substitute a different procedure.

1 Arrest of debtor about to leave Isle of Man

- (1) Process in an action for the arrest of the person of a debtor shall be issued by a Deemster on his being satisfied on the affidavit of the creditor or his duly authorised agent that such creditor has a good cause of action against the debtor and that the creditor has good grounds for supposing that the debtor is about to depart from this Isle and remain absent therefrom without settling the cause of action or binding himself irrevocably to submit to the jurisdiction of Her Majesty's High Court of Justice of the Isle of Man with respect thereto.
- (2) Process in an action of arrest shall be served upon the defendant by an officer of Police, who shall thereby be empowered to arrest and detain the person of the defendant subject to the provisions in this section hereinafter contained.
- (3) The defendant to an action of arrest shall only be held to bail to submit himself irrevocably to the jurisdiction of Her Majesty's High Court of Justice of the Isle of Man in the matter of the cause of action in respect of which such arrest has been granted and to enter an appearance in such action.
- (4) The defendant shall be released from arrest on filing in the General Registry in accordance with rules of court an acknowledgment of service and an undertaking in writing to submit himself irrevocably to the jurisdiction of the court.¹
- (5) [Repealed]²

2 Abolition of action of arrest of goods

Subject as aforesaid actions of arrest of goods for civil debts, contracts or damages by virtue of any process issuing out of the Chancery Division and the procedure relating thereto shall cease to have effect.

3 Power under certain circumstances to arrest assets of debtor about to quit the Isle of Man

Where a debtor is about to leave the Isle of Man, or has left the Isle of Man, and a creditor has a good cause of action against the debtor to the amount of twenty pounds or upwards, and has probable cause for believing that the debtor is removing, or intends to remove, from this Isle the whole, or a substantial part, of his assets and has probable cause for believing that the debtor does not intend to settle the cause of action —

- (a) the Coroner of any Sheading where any of the assets of the debtor may be situate, if authorised in writing by the creditor and upon being satisfied of the bona fide intention of the creditor to apply with all due diligence for an Order under paragraph (b) of this Section, shall (taking with him the creditor or a representative of the creditor) seize and secure the assets of the debtor within this Isle (whether in the Coroner's own Sheading or in any other Sheading) and retain the same for a period of forty-eight hours and no longer, to enable an Order of arrest to be obtained or the settlement of the cause of action;
- (b) the creditor may make an ex parte application by petition to the Court praying for the seizure and appraisal of the assets of the debtor within this Isle, supported by an affidavit setting out the nature and particulars of the cause of the action against the debtor and the grounds of application and verifying that the cause of action is just and reasonable and that the absence of the defendant from the Isle of Man will materially prejudice the plaintiff in the prosecution of his action and the enforcement of any execution or Order of the Court consequent upon such proceedings.³

4 Order of arrest of assets

Upon consideration of the application and affidavit referred to in the preceding section, and upon being satisfied of the matters stated in the affidavit and referred to in paragraph (b) of clause three of this Act, the Court may make an Order directing the Coroner of any Sheading where any of the assets of the debtor may be situate to seize and appraise the assets of the debtor (whether in the Coroner's own Sheading or in any other Sheading) up to the amount mentioned in the Order, to abide the future judgment of the High Court in any proceedings taken, or to be taken, by the creditor against the debtor in respect of the cause of action, or until further Order of the Court, or until the debtor has

given security not exceeding the aforesaid amount mentioned in the Order, or has settled the cause of action.

5 Duty of Coroner

Upon receipt of any Order the Coroner shall, by virtue of such Order, seize and appraise such assets of the debtor and shall make a return to the court setting out the particulars and value of the assets so seized and appraised, and shall retain, secure and deal with such assets in accordance with the terms of any Order of the Court; and shall be entitled to receive the same fees and charges as are allowed in the case of an arrest for rent.

6 Bail

- (1) Where the assets of a debtor shall be seized and appraised under an Order, the debtor may deposit in Court the amount mentioned in the Order, or, with one or more sureties, enter into a Bond to the creditor for the amount mentioned in the Order, or, with the creditor's consent, give any other form of security. The creditor may, within four days after receiving particulars of the names and addresses of the proposed sureties, give notice that he objects thereto, stating in the notice particulars of his objections. In such case, the sufficiency of the security shall be determined by the Court, which shall have power to award costs to either party. It shall be the duty of the creditor to obtain from the Court the order for hearing for that purpose, and, unless he does so within four days after giving notice of the objection, the security shall be deemed to be sufficient.
- (2) Upon the giving of sufficient security the assets of the debtor shall be discharged from such seizure and appraisal, but the money deposited and the security and all proceedings thereon shall be subject to the Order and control of the Court, and, unless otherwise ordered, the costs of and incidental to an Order shall be a first charge upon the assets arrested.

7 No preference by virtue of an Order

From and after the issuing of any Order, and until the same shall be set aside or superseded by the Court, or otherwise determined, no creditor of the debtor shall be entitled to a preference for the payment of his debt out of the said assets of the debtor save only for such debts as are of a preferable nature or as may have obtained a preference by law previous to the issuing of such Order.

8 Creditor to proceed with diligence

Upon obtaining an Order, the creditor shall proceed with the cause of action with all due diligence, and, if the creditor fails to do so, the Court may discharge the Order and award costs to the debtor.

9 Savings in respect of other remedies

The provisions of this Act shall be in addition to, and not in derogation of any other remedy conferred upon the creditor by any Act, law or custom (other than actions of arrest abolished by section two of this Act) and such other remedies may be exercised in the same manner as if this Act had not been passed.

10 Rules

The power to make Rules of Court under the *High Court Act 1991*, shall include the power to make rules for the purposes of this Act and the proceedings thereunder and the fees payable in respect of proceedings under such Acts shall apply to proceedings under this Act except in so far as Rules of Court may be made under this section.⁴

11 Interpretation

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them —

“**assets**” includes property available for the payment of debts but shall not include property which is not divisible amongst creditors under section 27 of the *Bankruptcy Code 1892*;⁵

“**cause of action**” includes any action, suit or original proceeding between a plaintiff and a defendant, but shall not include a criminal proceeding;

“**coroner**” includes a lockman;

“**Court**” means a High Court of Justice, Civil Division, Summary Jurisdiction, sitting in Chambers;⁶

“**creditor**” includes claimant in tort;

“**debtor**” includes tortfeasor;

“**Order**” means an Order of the Court made under section four of this Act.

12 [Repealed]⁷

13 Short title and citation

This Act may be cited as the Action of Arrest Act, 1953.

14 Commencement

This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a Certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

FIRST SCHEDULE

Section 1(4)

FORM⁸

IN HER MAJESTY'S HIGH COURT OF JUSTICE

ISLE OF MAN

Civil Division

In the matter of.....Plaintiff

and

.....Defendant

I.....
of.....

hereby submit myself irrevocably to the jurisdiction of this Honourable Court in the above styled action and I hereby enter an appearance in such action. Any notice or proceeding required to be served upon me in such action may be served by sending the same addressed to me by prepaid registered post at.....

This..... day of..... 19.....

SECOND SCHEDULE⁹



ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (4) substituted by SD352/09.

² Subs (5) repealed by SD352/09.

³ S 3 amended by Preferential Payments and Other Acts (Financial Adjustments) Act 1973 s 3.

⁴ S 10 amended by High Court Act 1991 Sch 3.

⁵ Definition of “assets” substituted by Bankruptcy Act 1988 s 3.

⁶ Definition of “Court” amended by SD352/09.

⁷ S 12 repealed by Statute Law Revision Act 1983 Sch 2.

⁸ Form amended by SD352/09.

⁹ Sch 2 repealed by Statute Law Revision Act 1983 Sch 2.