

Status: Point in time view as at 01/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Water Industry (Scotland) Act 2002, SCHEDULE 4. (See end of Document for details)

SCHEDULE 4

(introduced by section 37)

RECOVERY BY LOCAL AUTHORITY OF UNPAID CHARGES

- 1 This schedule applies to any sum which has become payable to a local authority by virtue of section 37 and has not been paid (including a sum forming part of a larger sum which has become payable and the other part of which has been paid).
- 2 (1) Any sum to which this schedule applies may be recovered by the local authority by diligence—
- (a) authorised by a summary warrant granted under sub-paragraph (2), or
 - (b) in pursuance of a decree granted in an action for payment.
- (2) The sheriff, on an application by the authority which is accompanied by a certificate from them containing such particulars as may be prescribed by the Scottish Ministers by regulations, must grant a summary warrant in a form provided for by Act of Sederunt authorising the recovery, by way of any of the diligences mentioned in sub-paragraph (3), of the amount of the sum remaining due and unpaid along with a surcharge of 10 per cent of that amount.
- (3) The diligences referred to in sub-paragraph (2) are—
- [^{F1}(za) an attachment,
 - (a) an earnings arrestment,
 - (b) an arrestment and action of furthcoming or sale.
- (4) It is incompetent for the sheriff to grant a summary warrant under sub-paragraph (2) in respect of any sum to which this schedule applies if an action has already been raised for the recovery of that sum; and, without prejudice to sub-paragraph (5), on the raising of an action for the recovery of any such sum, any existing summary warrant, in so far as it relates to the recovery of that sum, ceases to have effect.
- (5) It is incompetent to raise an action for the recovery of any sum to which this schedule applies if, in pursuance of a summary warrant, any of the diligences mentioned in sub-paragraph (3) for the recovery of that sum has been executed.
- (6) The Scottish Ministers may by order substitute another percentage for the percentage which is for the time being mentioned in sub-paragraph (2).

Textual Amendments

F1 Sch. 4 para. 2(3)(za) inserted (30.12.2002) by 2002 asp 17, ss. 61, 64(2)-(4), Sch. 3 Pt. I para. 28

- 3 No misnomer or inaccurate description of any person or place, or mistake of informality, in any notice or other document or communication relating to a demand for, or the recovery of, charges payable to the local authority by virtue of section 37 or in any proceedings for the payment of such charges prejudices such recovery.
- 4 (1) [^{F2}Without prejudice to section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment) and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment),] the sheriff officer's fees, together with the outlays necessarily incurred by the sheriff officer, in connection with the execution of a summary warrant under paragraph 2 are chargeable against the debtor.

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- (2) But no fees are chargeable by the sheriff officer against the debtor for collecting, and accounting to the local authority for, the sums paid to the sheriff officer by the debtor in satisfaction of an amount owing to the authority by way of charges payable to them by virtue of section 37.

Textual Amendments

- F2** Words in [sch. 4 para. 4\(1\)](#) inserted (1.4.2008 for specified purposes) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), [sch. 5 para. 26\(3\)](#) (with s. 223); [S.S.I. 2008/115](#), art. 3(2)(3), [sch. 1](#) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by [S.S.I. 2009/67](#), art. 7; (31.1.2011) by [S.S.I. 2011/31](#), art. 5(a); and (4.10.2014) by [S.S.I. 2014/173](#), arts. 1(2), 3)

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