
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 8

ENFORCEMENT BY DEDUCTION FROM ACCOUNTS

PART 2

MISCELLANEOUS AMENDMENTS

TMA 1970

25 In section 28C of TMA 1970 (determination of tax where no return delivered), after subsection (4) insert—

“(4A) Where—

- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by a determination under this section, and
- (b) before that action is concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3),

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not been paid and does not exceed the original amount.”

Insolvency Act 1986

26 The Insolvency Act 1986 is amended as follows.

27 In section 126 (power to stay or restrain proceedings against company), after subsection (2) insert—

“(3) Subsection (1) applies in relation to any action being taken in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) as it applies in relation to any action or proceeding mentioned in paragraph (b) of that subsection.”

28 In section 128 (avoidance of attachments, etc), after subsection (2) insert—

“(3) In subsection (1) “attachment” includes a hold notice or a deduction notice under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and, if subsection (1) has effect in relation to a deduction notice, it also has effect in relation to the hold notice to which the deduction notice relates (whenever the hold notice was given).”

29 In section 130 (consequences of winding-up order), after subsection (3) insert—

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- “(3A) In subsections (2) and (3), the reference to an action or proceeding includes action in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts).”
- 30 (1) Section 176 (preferential charge on goods distrained) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) Subsection (2A) applies where—
- (a) any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of the company, or
- (b) Her Majesty's Revenue and Customs has been paid any amount from an account of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts),
- in the period of 3 months ending with the date of the winding-up order.
- (2A) Where this subsection applies—
- (a) in a case within subsection (2)(a), the goods or effects, or the proceeds of their sale, and
- (b) in a case within subsection (2)(b), the amount in question,
- is charged for the benefit of the company with the preferential debts of the company to the extent that the company's property is for the time being insufficient for meeting those debts.”
- (3) In subsection (3) for “(2)” substitute “ (2A) ”.
- (4) Accordingly, in the heading for the section, after “distrained” insert “ , etc ”.
- 31 In section 183 (effect of execution or attachment (England and Wales)), after subsection (4) insert—
- “(4A) For the purposes of this section, Her Majesty's Revenue and Customs is to be regarded as having attached a debt due to a company if it has taken action under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction for accounts) as a result of which an amount standing to the credit of an account held by the company is—
- (a) subject to arrangements made under paragraph 6(3) of that Schedule, or
- (b) the subject of a deduction notice under paragraph 13 of that Schedule.”
- 32 In section 346 (enforcement procedures), after subsection (1) insert—
- “(1A) For the purposes of this section, Her Majesty's Revenue and Customs is to be regarded as having attached a debt due to a person if it has taken action under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) as a result of which an amount standing to the credit of an account held by that person is—
- (a) subject to arrangements made under paragraph 6(3) of that Schedule, or
- (b) the subject of a deduction notice under paragraph 13 of that Schedule.”
- 33 (1) In section 347 (distress, etc)—

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(a) for subsection (3) substitute—

“(3) Subsection (3A) applies where—

- (a) any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of an individual who is adjudged bankrupt before the end of the period of 3 months beginning with the distraint, or
- (b) Her Majesty's Revenue and Customs has been paid any amount from an account of an individual under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and the individual is adjudged bankrupt before the end of the period of 3 months beginning with the payment.

(3A) Where this subsection applies—

- (a) in a case within subsection (3)(a), the goods or effects, or the proceeds of their sale, and
 - (b) in a case within subsection (3)(b), the amount in question, is charged for the benefit of the bankrupt's estate with the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting them.”;
- (b) in subsection (4), for “(3)” substitute “ (3A) ”.

(2) In paragraph 40(3) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (which amends section 347(3) of the Insolvency Act 1986 to substitute “ made ” for “adjudged”), the reference to subsection (3) of section 347 is to be read as a reference to the version of subsection (3) substituted by sub-paragraph (1) of this paragraph.

Insolvency (Northern Ireland) Order 1989

34 The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) is amended as follows.

35 In Article 106 (power to stay or restrain proceedings against company), after paragraph (2) insert—

“(3) Paragraph (1) applies in relation to any action being taken in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) as it applies in relation to any action or proceeding mentioned in sub-paragraph (b) of that paragraph.”

36 In Article 108 (avoidance of sequestration or distress)—

- (a) the existing text becomes paragraph (1), and
- (b) after that paragraph insert—

“(2) In paragraph (1) the reference to “sequestration or distress” includes a hold notice or a deduction notice under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and, if paragraph (1) has effect in relation to a deduction notice, it also has effect in relation to the hold notice to which it relates (whenever the hold notice was given).”

37 In Article 110 (consequences of winding-up order), after paragraph (3) insert—

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“(3A) In paragraphs (2) and (3), the reference to an action or proceeding includes action in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts).”

38 (1) Article 150 (preferential charge on goods distrained) is amended as follows.

(2) For paragraph (2) substitute—

“(2) Paragraph (2A) applies where—

- (a) any person has distrained upon the goods or effects of the company, or
- (b) Her Majesty's Revenue and Customs has been paid any amount from an account of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts),

within the 3 months immediately preceding the date of the winding-up order.

(2A) Where this paragraph applies—

- (a) in a case within paragraph (2)(a), the goods or effects, or the proceeds of their sale, and
- (b) in a case within paragraph (2)(b), the amount in question,

is charged for the benefit of the company with the preferential debts of the company to the extent that the company's property is for the time being insufficient for meeting those debts.”

(3) In paragraph (3) for “(2)” substitute “ (2A) ”.

(4) Accordingly, in the heading for the Article after “distrained” insert “ , etc ”.

39 (1) Article 301 (preferential charge on goods distrained) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Paragraph (1A) applies where—

- (a) any person has distrained upon the goods or effects of an individual who is adjudged bankrupt within 3 months from the distraint, or
- (b) Her Majesty's Revenue and Customs has been paid any amount from an account of an individual under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts) and the individual is adjudged bankrupt within 3 months from the payment.

(1A) Where this paragraph applies—

- (a) in a case within paragraph (1)(a), the goods or effects, or the proceeds of their sale, and
- (b) in a case within paragraph (1)(b), the amount in question,

is charged for the benefit of the bankrupt's estate with the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting them.”

(3) In paragraph (2) for “(1)” substitute “ (1A) ”.

FA 1998

40 In Schedule 18 to FA 1998 (company tax returns, assessments etc), in paragraph 40, after sub-paragraph (4) insert—

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“(5) Where—

- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of any tax charged by a determination under paragraph 36 or 37, and
- (b) before that action is concluded, the determination is superseded by a self-assessment,

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not been paid and does not exceed the original amount.”

FA 2003

- 41 In Schedule 10 to FA 2003 (stamp duty land tax: returns etc), in paragraph 27, after sub-paragraph (3) insert—

“(4) Where—

- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by a Revenue determination, and
- (b) before that action is concluded, the determination is superseded by a self-assessment,

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.”

FA 2013

- 42 In Schedule 33 to FA 2013 (annual tax on enveloped dwellings: returns etc), in paragraph 20, after sub-paragraph (3) insert—

“(4) Where—

- (a) action is being taken under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by an HMRC determination, and
- (b) before that action is concluded, the determination is superseded by a self-assessment,

that action may be continued as if it were action for the purposes of the recovery of so much of the tax charged by the self-assessment as is due and payable, has not yet been paid and does not exceed the original amount.”

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