

2009 No. 403

SHERIFF COURT

**Act of Sederunt (Debt Arrangement and Attachment (Scotland)
Act 2002) Amendment 2009**

Made - - - - 17th November 2009

Coming into force - - 23rd November 2009

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971^(a) and section 128(6) of the Finance Act 2008^(b) and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) Amendment 2009 and comes into force on 23rd November 2009.

(2) This Act of Sederunt is to be inserted in the Books of Sederunt.

Summary warrants

2.—(1) The Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002 (the “2002 Act of Sederunt”)^(c) is amended in accordance with subparagraph (2).

(2) In Schedule 2 (forms of summary warrant)—

(a) in the Table, for the description relating to Form B substitute—

“Warrant under section 128(6) of the Finance Act 2008”;

(b) substitute the following for Form B—

(a) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12; the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4); the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2); the Adults with Incapacity (Scotland) Act 2000 (asp 4) (the “2000 asp”), schedule 5, paragraph 13; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2); the Consumer Credit Act 2006 (c.14), section 16(4); and the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (the “2007 asp”) section 33. Section 32 is amended prospectively by the 2007 asp, schedule 5, paragraph 10. Section 32 was extended by the Debtors (Scotland) Act 1987 (c.18), section 97; the Child Support Act 1991 (c.48), sections 39(2) and 49; and by section 2(4) of the 2000 asp.

(b) 2008 c.9.

(c) S.S.I. 2002/560.

“Form B

Article 3(2)

SUMMARY WARRANT UNDER SECTION 128(6) OF THE FINANCE ACT 2008 FOR THE RECOVERY OF SUMS PAYABLE TO THE COMMISSIONERS FOR HER MAJESTY’S REVENUE AND CUSTOMS

(Place and date)

The Sheriff having considered the application dated *(date)* by *(name and address of applicant)* along with the certificate produced, grants a summary warrant authorising recovery of the amount payable by each person specified in the application by all lawful execution.

Sheriff”.

Transitional and savings provisions

3. The 2002 Act of Sederunt as it applied immediately before 23rd November 2009 continues to have effect for the purpose of any summary warrant granted before that date under any of—

- (a) section 63 of the Taxes Management Act 1970 (recovery of tax in Scotland)(a);
- (b) section 121B of the Social Security Administration Act 1992 (recovery of contributions etc. in Scotland)(b);
- (c) section 52 of the Finance Act 1997 (recovery of relevant tax in Scotland)(c); or
- (d) paragraph 3 of Schedule 12 to the Finance Act 2003 (recovery of stamp duty land tax in Scotland)(d).

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
17th November 2009

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- (a) 1970 c.9. Section 63 was substituted by the Debtors (Scotland) Act 1987 (c.18), Schedule 4, paragraph 2; and amended by the Finance Act 1989 (c.26), section 154; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (the “2002 asp”), schedule 3, paragraph 11(2); the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, paragraph 133; and the Finance Act 2004 (c.12), Schedule 12, paragraph 5.
 - (b) 1992 c.5. Section 121B was inserted by the Social Security Act 1998 (c.14), section 63; and amended by the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c.2), Schedule 5, paragraph 9; the 2002 asp, schedule 3, paragraph 21; and the National Insurance Contributions and Statutory Payments Act 2004 (c.3), section 5(2).
 - (c) 1997 c.16. Section 52 was amended by the Finance Act 2000 (c.17), Schedule 7, paragraph 7(3); the Finance Act 2001 (c.9), Schedule 5, paragraph 16; the 2002 asp, schedule 3, paragraph 26; and is amended prospectively by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), schedule 5, paragraph 24.
 - (d) 2003 c.14.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt amends the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002 in order to provide for a form of summary warrant under section 128(6) of the Finance Act 2008. Paragraph 3 provides that summary warrants that have been granted in the previous form prior to the coming into force date will continue to have effect.

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