



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART VI

#### COLLECTION AND RECOVERY

##### *Distraint and pouding*

#### **61 Distraint by collectors.**

- (1) If a person neglects or refuses to pay the sum charged, upon demand made by the collector, [<sup>F1</sup>the collector may distraint upon the goods and chattels of the person charged (in this section referred to as “the person in default”).]
- (2) For the purpose of levying any such distress, [<sup>F2</sup>a justice of the peace, on being satisfied by information on oath that there is reasonable ground for believing that a person is neglecting or refusing to pay a sum charged, may issue a warrant in writing authorising a collector to] break open, in the daytime, any house or premises, calling to his assistance any constable.

Every such constable shall, when so required, aid and assist the collector in the execution of the warrant and in levying the distress in the house or premises.

- (3) A levy or warrant to break open shall be executed by, or under the direction of, and in the presence of, the collector.
- (4) A distress levied by the collector shall be kept for five days, at the costs and charges of a person [<sup>F3</sup>in default].
- (5) If the person [<sup>F4</sup>in default] does not pay the sum due, together with the costs and charges <sup>F5</sup> . . . , the distress shall be appraised by [<sup>F6</sup>one or more independent persons appointed by the collector], and shall be sold by public auction by the collector for payment of the sum due and all costs and charges.

<sup>F7</sup> . . . Any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

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- [<sup>F8</sup>(6) The Treasury may by regulations make provision with respect to—
- (a) the fees chargeable on or in connection with the levying of distress, and
  - (b) the costs and charges recoverable where distress has been levied;
- and any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

- F1** Words in s. 61(1) substituted (1.2.1994) by [Finance Act 1989 \(c. 26\), s. 152\(2\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F2** Words in s. 61(2) substituted (1.2.1994) by [Finance Act 1989 \(c. 26\), s. 152\(3\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F3** Words in s. 61(4) substituted (1.2.1994) by [Finance Act 1989 \(c. 26\), s. 152\(4\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F4** Words in s. 61(5) substituted (1.2.1994) by [Finance Act 1989 \(c. 26\), s. 152\(5\)\(a\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F5** Words in s. 61(5) omitted (1.2.1994) by virtue of [Finance Act 1989 \(c. 26\), s. 152\(5\)\(b\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F6** Words in s. 61(5) substituted (1.2.1994) by [Finance Act 1989 \(c. 26\), s. 152\(5\)\(c\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F7** Words in s. 61(5) omitted (1.2.1994) by virtue of [Finance Act 1989 \(c. 26\), s. 152\(5\)\(d\)\(7\)](#); S.I. 1994/87, [art. 2](#)
- F8** S. 61(6) added (1.2.1994) by [Finance Act 1989 \(c. 26\), s. 152\(6\)\(7\)](#); S.I. 1994/87, [art. 2](#)

#### Modifications etc. (not altering text)

- C1** S. 61 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\), s. 1, Sch. 2 para. 1\(1\)](#)
- C2** S. 61 applied (with modifications) (31.7.1997) by [Finance \(No. 2\) Act 1997 \(c. 58\), Sch. 2 para. 15\(1\)-\(3\)](#)
- C3** S. 61 applied (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Stamp Duty \(Collection and Recovery of Penalties\) Regulations 1999 \(S.I. 1999/2537\), regs. 1\(1\), 3\(1\), Sch. Pt. I](#)

## 62 Priority of claim for tax.

- (1) [<sup>F9</sup>If at any time at which any goods or chattels belonging to any person (in this section referred to as “the person in default”) are] liable to be taken by virtue of any execution or other process, warrant, or authority whatever, or by virtue of any assignment, on any account or pretence whatever, except at the suit of the landlord for rent, [<sup>F9</sup>the person in default is in arrears in respect of any such claims as are referred to in subsection (1A) below, the goods or chattels may not be so taken unless on demand made by the collector] the person at whose suit the execution or seizure is made, or to whom the assignment was made, pays or causes to be paid to the collector, before the sale or removal of the goods or chattels, all [<sup>F9</sup>such sums as have fallen due at or before the date of seizure].

[<sup>F10</sup>(1A) The sums referred to in subsection (1) above are—

- (a) sums due from the person in default on account of deductions of income tax from [<sup>F11</sup>taxable earnings (as defined by section 10 of ITEPA 2003)] paid during the period of twelve months next before the date of seizure, being deductions which the person in default was liable to make under [<sup>F12</sup>PAYE regulations] less the amount of the repayments of income tax which he was liable to make during that period; and

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- (b) sums due from the person in default in respect of deductions required to be made by him for that period under [<sup>F13</sup>section 61 of the Finance Act 2004] (sub-contractors in the construction industry).]
- (2) [<sup>F14</sup>If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the collector may] distraint the goods and chattels notwithstanding the seizure or assignment, and [<sup>F14</sup>may proceed] to the sale thereof, as prescribed by this Act, for the purpose of obtaining payment of the whole of [<sup>F14</sup>those sums], and the reasonable costs and charges attending such distress and sale, and every collector so doing shall be indemnified by virtue of this Act.

<sup>F15</sup>(3) .....

#### Textual Amendments

- F9** Words in s. 62(1) substituted by [Finance Act 1989 \(c. 26\)](#), **s. 153(2)**.
- F10** S. 62(1A) inserted by [Finance Act 1989 \(c. 26\)](#), **s. 153(3)**.
- F11** Words in s. 62(1A)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 6 para. 132(a)** (with [Sch. 7](#))
- F12** Words in s. 62(1A)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 6 para. 132(b)** (with [Sch. 7](#))
- F13** Words in s. 62(1A)(b) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 12 para. 4(2)**
- F14** Words in s. 62(2) substituted by [Finance Act 1989 \(c. 26\)](#), **s. 153(4)**.
- F15** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.17. Development Land Tax Act 1976 repealed by [Finance Act 1985 \(c. 54\)](#), s.98(6), Sch.27 Part X.

### <sup>F16</sup>63 Recovery of tax in Scotland

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#### Textual Amendments

- F16** S. 63 omitted (23.11.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), **Sch. 43 para. 12(a)**; S.I. 2009/3024, [art. 3](#) (with [art. 4](#))

### <sup>F17</sup>63A Sheriff officer's fees and outlays.

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#### Textual Amendments

- F17** S. 63A omitted (23.11.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), **Sch. 43 para. 12(b)**; S.I. 2009/3024, [art. 3](#)

### 64 Priority of claim for tax in Scotland.

- (1) [<sup>F18</sup>If at any time at which any movable goods and effects belonging to any person (in this section referred to as “the person in default”) are] liable to be taken by virtue of any <sup>F19</sup>... diligence whatever, or by any assignation, [<sup>F20</sup>the person in default is in arrears

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in respect of any such sums as are referred to in subsection (1A) below, the goods and effects may not be so taken unless on demand made by the collector] the person proceeding to take the said goods and effects pays [<sup>F20</sup>such sums as have fallen due at or before the date of pouding or, as the case may be, other diligence or assignation].

[<sup>F21</sup>(1A) The sums referred to in subsection (1) above are—

- (a) sums due from the person in default on account of deductions of income tax from [<sup>F22</sup>taxable earnings (as defined by section 10 of ITEPA 2003)] paid during the period of twelve months next before the date of pouding, being deductions which the person in default was liable to make under [<sup>F23</sup>PAYE regulations] less the amount of the repayments of income tax which he was liable to make during that period; and
- (b) sums due from the person in default in respect of deductions required to be made by him for that period under [<sup>F24</sup>section 61 of the Finance Act 2004] (sub-contractors in the construction industry).]

- (2) [<sup>F25</sup>If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the sums shall], notwithstanding any [<sup>F25</sup>proceedings] for the purpose of taking the said moveable goods and effects, be recoverable by pouding and selling the said moveable goods and effects under warrant obtained in conformity with the provisions contained in section 63 above.

[<sup>F26</sup>(3) . . . . .

#### Textual Amendments

- F18** Words in s. 64(1) substituted by [Finance Act 1989 \(c. 26\)](#), s. 155(2)(a).
- F19** Words in s. 64(1) repealed (S.) (22.4.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2009/67, art. 3(2)(3), [Sch. 2](#) (with arts. 4-6) (as amended (31.1.2011) by [S.S.I. 2011/31](#), art. 5(b))
- F20** Words in s. 64(1) substituted by [Finance Act 1989 \(c. 26\)](#), [s. 155\(2\)\(b\)\(c\)](#).
- F21** S. 64(1A) inserted by [Finance Act 1989 \(c. 26\)](#), s. 155(3)
- F22** Words in s. 64(1A)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 134\(a\)](#) (with [Sch. 7](#))
- F23** Words in s. 64(1A)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 134\(b\)](#) (with [Sch. 7](#))
- F24** Words in s. 64(1A)(b) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 6\(2\)](#)
- F25** Words in s. 64(2) substituted by [Finance Act 1989 \(c. 26\)](#), [s. 155\(4\)\(a\)\(b\)](#).
- F26** *A development land tax provision added by* [Development Land Tax Act 1976 \(c. 24\)](#) [Sch.8 para.18](#).  
Development Land Tax Act 1976 repealed by [Finance Act 1985 \(c. 54\)](#), s.98(6), [Sch.27 Part X](#).

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