

*Status: Point in time view as at 30/12/2002.*

*Changes to legislation: Debtors (Scotland) Act 1987, SCHEDULE 4 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

Section 74(1).

#### RECOVERY OF RATES AND TAXES ETC.

*The Local Government (Scotland) Act 1947 (c. 43.)*

- 1 (1) For section 247 there shall be substituted the following sections—

**“247 Recovery of rates.**

- (1) Subject to subsections (4) and (5) below, arrears of rates may be recovered by a rating authority by diligence—
  - (a) authorised by a summary warrant granted under subsection (2) below; or
  - (b) in pursuance of a decree granted in an action for payment.
- (2) Subject to subsection (4) below, the sheriff, on an application by the rating authority accompanied by a certificate by the rating authority—
  - (a) stating that none of the persons specified in the application has paid the rates due by him;
  - (b) stating that the authority has given written notice to each such person requiring him to make payment of the amount due by him within a period of 14 days after the date of the giving of the notice;
  - (c) stating that the said period of 14 days has expired without payment of the said amount; and
  - (d) specifying the amount due and unpaid by each such person,shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery by any of the diligences mentioned in subsection (3) below of the amount remaining due and unpaid along with a surcharge of 10 per cent. (or such percentage as may be prescribed) of that amount.
- (3) The diligences referred to in subsection (2) above are—
  - (a) a pouncing and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
  - (b) an earnings arrestment;
  - (c) an arrestment and action of furthcoming or sale.
- (4) It shall not be competent for the sheriff to grant a summary warrant under subsection (2) above in respect of rates due by a debtor if an action has already been commenced for the recovery of those rates; and, without prejudice to subsection (5) below, on the commencing of an action for the recovery of rates, any existing summary warrant in so far as it relates to the recovery of those rates shall cease to have effect.

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- (5) It shall not be competent to commence an action for the recovery of rates if, in pursuance of a summary warrant, any of the diligences mentioned in subsection (3) above for the recovery of those rates has been executed.
- (6) In any proceedings for the recovery of rates, whether by summary warrant or otherwise, no person shall be entitled to found upon failure of the rating authority or any other authority to comply with any provision of this Part of this Act relating to the date by which something shall be done, not being a provision in this section or a provision regulating the diligence.
- (7) Regulations under subsection (2) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **247A Sheriff officer’s fees and outlays.**

- (1) Subject to subsection (2) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of poinding and sale), the sheriff officer’s fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.
  - (2) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the rating authority for, sums paid to him by the debtor in respect of the amount owing.”
- (2) In section 250, for the words from “warrant” to “in payment” where third occurring there shall be substituted the words—
- “a summary warrant in a form prescribed by Act of Sederunt authorising the recovery by any of the diligences mentioned in section 247(3) of this Act of the amount remaining due and unpaid”.

*The Taxes Management Act 1970 (c. 9.)*

2 For section 63 there shall be substituted the following sections—

#### **“63 Recovery of tax in Scotland.**

- (1) Subject to subsection (3) below, in Scotland, where any tax is due and has not been paid, the sheriff, on an application by the collector accompanied by a certificate by the collector—
  - (a) stating that none of the persons specified in the application has paid the tax due by him;
  - (b) stating that the collector has demanded payment under section 60 of this Act from each such person of the amount due by him;
  - (c) stating that 14 days have elapsed since the date of such demand without payment of the said amount; and
  - (d) specifying the amount due and unpaid by each such person,
 shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery, by any of the diligences mentioned in subsection (2) below, of the amount remaining due and unpaid.

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- (2) The diligences referred to in subsection (1) above are—
  - (a) a pouncing and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
  - (b) an earnings arrestment;
  - (c) an arrestment and action of furthcoming or sale.
- (3) Paragraph (c) of subsection (1) above shall not apply to an application under that subsection which relates to tax deducted from the emoluments of an office or employment by virtue of regulations under section 204 of the principal Act.

### **63A Sheriff officer's fees and outlays.**

- (1) Subject to subsection (2) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of pouncing and sale), the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.
- (2) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the collector for, sums paid to him by the debtor in respect of the amount owing.”.

#### *The Car Tax Act 1983 (c. 53.)*

3 In paragraph 3(2) of Schedule 1 (recovery of car tax), for the words from “and (b)” to the end there shall be substituted the following sub-paragraphs—

- “(3) In respect of Scotland, where any tax is due and has not been paid, the sheriff, on an application by the Commissioners accompanied by a certificate by the Commissioners—
- (a) stating that none of the persons specified in the application has paid the tax due from him;
  - (b) stating that payment of the amount due from each such person has been demanded from him; and
  - (c) specifying the amount due from and unpaid by each such person,
- shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery, by any of the diligences mentioned in sub-paragraph (4) below, of the amount remaining due and unpaid.
- (4) The diligences referred to in sub-paragraph (3) above are—
    - (a) a pouncing and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
    - (b) an earnings arrestment;
    - (c) an arrestment and action of furthcoming or sale.
  - (5) Subject to sub-paragraph (6) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of pouncing and sale), the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.

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- (6) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the Commissioners for, sums paid to him by the debtor in respect of the amount owing.
- (7) Regulations under this Schedule may make provision for anything which the Commissioners may do under sub-paragraphs (3) to (6) above to be done by an officer of the Commissioners holding such rank as the regulations may specify.”.

*The Value Added Tax Act 1983 (c. 55.)*

<sup>F1</sup>4 .....

<p><b>Textual Amendments</b></p> <p><b>F1</b> Sch. 4 para. 4 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), <b>Sch. 15</b></p>
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