

Status: Point in time view as at 06/04/2003.

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SCHEDULES

^{F1}SCHEDULE 1

Section 44.

Textual Amendments

- F1** Sch. 1 repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 58(2)(c) (with ss. 59, 63)

SCHEDULE 2

Section 49.

^{F2} ARRESTMENT

Textual Amendments

- F2** Tables A, B and C and heading of Sch. 2 substituted (30.11.1995) by S.I. 1995/2878, reg. 3, Sch.

^{F3}TABLE A: DEDUCTIONS FROM WEEKLY EARNINGS

<i>Net Earnings</i>	<i>Deduction</i>
Not exceeding £70	Nil
Exceeding £70 but not exceeding £105	£3
Exceeding £105 but not exceeding £115	£5
Exceeding £115 but not exceeding £125	£8
Exceeding £125 but not exceeding £135	£11
Exceeding £135 but not exceeding £150	£13
Exceeding £150 but not exceeding £165	£16
Exceeding £165 but not exceeding £180	£19
Exceeding £180 but not exceeding £195	£21
Exceeding £195 but not exceeding £210	£24
Exceeding £210 but not exceeding £225	£27
Exceeding £225 but not exceeding £240	£29
Exceeding £240 but not exceeding £255	£32
Exceeding £255 but not exceeding £270	£35

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Exceeding £270 but not exceeding £290	£40
Exceeding £290 but not exceeding £310	£46
Exceeding £310 but not exceeding £335	£51
Exceeding £335 but not exceeding £360	£56
Exceeding £360 but not exceeding £385	£62
Exceeding £385 but not exceeding £410	£70
Exceeding £410 but not exceeding £440	£78
Exceeding £440 but not exceeding £470	£86
Exceeding £470 but not exceeding £500	£94
Exceeding £500 but not exceeding £535	£102
Exceeding £535 but not exceeding £575	£123
Exceeding £575 but not exceeding £620	£145
Exceeding £620 but not exceeding £675	£169
Exceeding £675 but not exceeding £740	£196
Exceeding £740 but not exceeding £805	£223
Exceeding £805	£223 in respect of the first £805 plus 50 per cent of the remainder

Textual Amendments

F3 Tables A, B and C substituted (3.12.2001) by [S.S.I. 2001/408](#), reg. 3, [Sch.](#)

TABLE B: DEDUCTIONS FROM MONTHLY EARNINGS

<i>Net Earnings</i>	<i>Deduction</i>
Not exceeding £304	Nil
Exceeding £304 but not exceeding £410	£13
Exceeding £410 but not exceeding £460	£21
Exceeding £460 but not exceeding £510	£29
Exceeding £510 but not exceeding £560	£38
Exceeding £560 but not exceeding £610	£48
Exceeding £610 but not exceeding £660	£59
Exceeding £660 but not exceeding £710	£70
Exceeding £710 but not exceeding £760	£80
Exceeding £760 but not exceeding £820	£91
Exceeding £820 but not exceeding £880	£102
Exceeding £880 but not exceeding £940	£113

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Exceeding £940 but not exceeding £1,000	£123
Exceeding £1,000 but not exceeding £1,070	£134
Exceeding £1,070 but not exceeding £1,150	£155
Exceeding £1,150 but not exceeding £1,240	£177
Exceeding £1,240 but not exceeding £1,340	£198
Exceeding £1,340 but not exceeding £1,440	£220
Exceeding £1,440 but not exceeding £1,550	£241
Exceeding £1,550 but not exceeding £1,660	£263
Exceeding £1,660 but not exceeding £1,780	£292
Exceeding £1,780 but not exceeding £1,900	£324
Exceeding £1,900 but not exceeding £2,020	£357
Exceeding £2,020 but not exceeding £2,140	£389
Exceeding £2,140 but not exceeding £2,400	£483
Exceeding £2,400 but not exceeding £2,660	£590
Exceeding £2,660 but not exceeding £2,930	£702
Exceeding £2,930 but not exceeding £3,205	£836
Exceeding £3,205 but not exceeding £3,485	£970
Exceeding £3,485	£970 in respect of the first £3,485 plus 50 per cent of the remainder

TABLE C: DEDUCTIONS BASED ON DAILY EARNINGS

<i>Net Earnings</i>	<i>Deduction</i>
Not exceeding £10	Nil
Exceeding £10 but not exceeding £14	£0.40
Exceeding £14 but not exceeding £17	£0.80
Exceeding £17 but not exceeding £19	£1.20
Exceeding £19 but not exceeding £21	£1.60
Exceeding £21 but not exceeding £24	£2.70
Exceeding £24 but not exceeding £27	£3.20
Exceeding £27 but not exceeding £30	£3.70
Exceeding £30 but not exceeding £33	£4.20
Exceeding £33 but not exceeding £36	£4.70
Exceeding £36 but not exceeding £40	£5.20
Exceeding £40 but not exceeding £44	£6.30
Exceeding £44 but not exceeding £48	£7.10

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Exceeding £48 but not exceeding £53	£8.40
Exceeding £53 but not exceeding £58	£9.80
Exceeding £58 but not exceeding £64	£11.50
Exceeding £64 but not exceeding £70	£13.50
Exceeding £70 but not exceeding £77	£16.00
Exceeding £77 but not exceeding £85	£18.50
Exceeding £85 but not exceeding £94	£22.50
Exceeding £94 but not exceeding £103	£26.50
Exceeding £103 but not exceeding £113	£30.50
Exceeding £113	£30.50 in respect of the first £113 plus 50 per cent of the remainder]]

SCHEDULE 3

Section 64.

DISBURSEMENTS BY SHERIFF CLERKS UNDER CONJOINED ARRESTMENT ORDER

- 1 Where all the debts are ordinary debts, in every disbursement by the sheriff clerk each creditor shall be paid the same proportion of the amount of his debt.
- 2 Where all the debts are current maintenance, then, in any such disbursement, if the sum available for disbursement is—
 - (a) sufficient to satisfy every creditor in respect of the amount of maintenance to be deducted in respect of his debt on that pay-day, each creditor shall be paid that amount;
 - (b) insufficient to satisfy every creditor in respect of the amount of maintenance specified in paragraph (a) above, each creditor shall be paid the same proportion of that amount.
- 3 Subject to paragraph 4 below, where the debts comprise both ordinary debts and current maintenance, then, in any such disbursement—
 - (a) if only one of the debts is an ordinary debt, the creditor in that debt shall be paid the sum which would be payable to him if the debt were being enforced by an earnings arrestment;
 - (b) if more than one of the debts is an ordinary debt, each of the creditors in those debts, out of the sum which would be payable to a creditor if the debt were a single debt being enforced by an earnings arrestment, shall be paid the same proportion of the amount of his debt;
 - (c) if only one of the debts is current maintenance, the creditor in that debt shall be paid the sum which would be payable to him under section 51 of this Act if the debt were being enforced by a current maintenance arrestment;
 - (d) if more than one of the debts is current maintenance, each of the creditors in those debts shall receive a payment in accordance with paragraph 2 of this Schedule.

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- 4 If the sum available for any disbursement is insufficient to enable the provisions of paragraph 3 above to operate both in relation to the ordinary debts and the current maintenance, priority shall be given in the disbursement to the ordinary debts.
- 5 For the purposes of this Schedule, the amount of an ordinary debt—
- (a) of a creditor whose debt was being enforced by an earnings arrestment which was recalled under section 60(3) of this Act, shall be the amount specified in the earnings arrestment schedule;
 - (b) of any other creditor, shall be the amount specified in the conjoined arrestment order or the order under section 62(5) of this Act.

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 pinding 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

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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.

- (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,

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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.

- (2) The diligences referred to in subsection (1) above are—
 - (a) a poinding 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 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 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 poinding 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 poinding and sale), the sheriff officer's fees, together with the outlays

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necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.

(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.)

^{F4}4

Textual Amendments
^{F4} Sch. 4 para. 4 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

^{F5} SCHEDULE 5 Section 74.

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Textual Amendments
^{F5} Sch. 5 repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 58(2)(d) (with ss. 59, 63)

SCHEDULE 6 Section 108(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

General amendment

1 Any reference in any enactment to an order being enforceable in like manner as a recorded decree arbitral shall be construed as a reference to such an order being enforceable in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

Specific amendments

The Bank Notes (Scotland) Act 1765 (c. 49.)

^{F12}2

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Textual Amendments

F12 Sch. 6 para. 2 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. IX Group1.

The Debtors (Scotland) Act 1838 (c. 114.)

3 At the end of section 22 (arrestment to prescribe in three years), there shall be added the following subsections—

“(2) In the case of an arrestment which—

- (a) secures a debt which is subject to a time to pay direction or a time to pay order; or
- (b) is subject to an interim order under section 6(3) of the Debtors (Scotland) Act 1987 (order pending disposal of application for time to pay order),

there shall be disregarded, in computing the period at the end of which the arrestment prescribes, the period during which the time to pay direction, time to pay order or interim order is in effect.

(3) Nothing in this section shall apply to an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order.”.

The Harbours, Docks, and Piers Clauses Act 1847 (c. 27.)

4 In section 57 (unserviceable vessels to be altogether removed from harbour), for the word “poin ding” there shall be substituted the word “ arrestment ”.

The Lyon King of Arms Act 1867 (c.17)

5 In section 2 (admittance to office of messengers-at-arms), for the words “according to the present law and practice” there shall be substituted the words “ in accordance with Part V of the Debtors (Scotland) Act 1987 and any Act of Sederunt made thereunder ”.

The Court of Session Act 1868 (c. 100)

6 At the end of section 14 (induciae of summonses and other writs passing the signet), there shall be added the following subsection—

“(2) Nothing in this section shall apply to a charge for payment.”.

The Titles to Land Consolidation (Scotland) Act 1868 (c. 101)

7 In section 138 (import of short clauses of consent to registration), for the words from “letters of horning” to the end there shall be substituted the words “ , upon the issue of an extract containing a warrant for execution, all lawful execution shall pass thereon ”.

The Debtors (Scotland) Act 1880 (c. 34)

8 In section 4 (abolition of imprisonment for debt, with certain exceptions), for paragraph 1 there shall be substituted the following paragraph—

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“1 Fines imposed for contempt of court or under section 91 of the Court of Session Act 1868.”.

The Sea Fisheries Act 1883 (c. 22.)

F139

Textual Amendments
F13 Sch. 6 para. 9 repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt. X, Gp. 2

The Merchant Shipping Act 1894 (c. 60.)

10 In section 693 (sums ordered to be leviable by poinding and sale of ship), for the word “poinding” there shall be substituted the word “ arrestment ”.

The Execution of Diligence (Scotland) Act 1926 (c. 16)

11 In section 1 (sheriff officer to have the powers of a messenger-at-arms in certain places), for the word “county” in both places where it occurs there shall be substituted the words “ sheriff court district ”.

12 In section 2(1)(b) (execution of arrestment or charge by registered letter in certain cases), for the word “county” there shall be substituted the words “ sheriff court district ”.

The Sea Fisheries Act 1968 (c. 77.)

13 In section 12(2)(a) (recovery of fines imposed on master, etc. or crew), for the word “poinding” there shall be substituted the word “ arrestment ”.

The Prevention of Oil Pollution Act 1971 (c. 60.)

14 In section 20(1) (enforcement and application of fines), for the word “poinding” there shall be substituted the word “ arrestment ”.

The Town and Country Planning (Scotland) Act 1972 (c. 52)

F1415

Textual Amendments
F14 Sch. 6 para. 15 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1, Pt. X Gp. 2 (with s. 5, Sch. 3)

The Consumer Credit Act 1974 (c. 69)

16 After section 93 there shall be inserted the following section—

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“93A Summary diligence not competent in Scotland.

Summary diligence shall not be competent in Scotland to enforce payment of a debt due under a regulated agreement or under any security related thereto.”.

17 In section 129 (time orders)—

- (a) at the beginning of subsection (1) there shall be added the words “ Subject to subsection (3) below, ”;
- (b) at the end there shall be added the following subsection—

“(3) Where in Scotland a time to pay direction or a time to pay order has been made in relation to a debt, it shall not thereafter be competent to make a time order in relation to the same debt.”.

The Criminal Procedure (Scotland) Act 1975 (c. 21)

18 In section 411 (recovery by civil diligence), in subsection (1) for the words from “the words” to “14 days” there shall be substituted the words “a warrant for civil diligence in a form prescribed by Act of Adjournal which shall have the effect of authorising—

- (a) the charging of the person who has been fined to pay the fine within the period specified in the charge and, in the event of failure to make such payment within that period, the execution of an earnings arrestment and the pouding of articles belonging to him and, if necessary for the purpose of executing the pouding, the opening of shut and lockfast places;
- (b) an arrestment other than an arrestment of earnings in the hands of his employer;”.

The Crofting Reform (Scotland) Act 1976 (c. 21)

19 In section 17(1) (extension of powers of Land Court), for the words from “as if” to “to be enforced” there shall be substituted the words “ in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland ”.

The Patents Act 1977 (c. 37)

20 In section 93(b) and 107(3) (orders for expenses), for the words “a recorded decree arbitral” there shall be substituted the words “ an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland. ”.

The Customs and Excise Management Act 1979 (c. 2)

21 In section 117 (execution and diligence against revenue traders), for subsection (9) there shall be substituted the following subsections—

- “(9) This section shall apply to Scotland subject to the following modifications—
- (a) in subsection (3) for the words from “issue” to the end there shall be substituted the words “ granting of a warrant for the recovery of

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a sum owing by the revenue trader, those goods shall not be liable to be taken in execution under this section.”;

- (b) in subsection (4) for the word “seized” in both places where it occurs there shall be substituted the words “ taken in execution ”;
- (c) subsection (10) below shall apply in place of subsection (5);
- (d) in subsection (6) for the word “distrained” in both places where it occurs there shall be substituted the words “ taken into possession ”;
- (e) in subsection (7) for the words “of the distress and sale” there shall be substituted the words “ incurred in the taking into possession and sale of the things under that subsection ”;
- (f) in subsection (7A) for the words “distress is levied” there shall be substituted the words “ things are taken into possession ” and for the word “distress” where second occurring there shall be substituted the words “ taking into possession ”.

(10) The sheriff, on an application by the proper officer accompanied by a certificate by him that relevant excise duty payable by a revenue trader remains unpaid after the time within which it is payable, may grant a warrant authorising a sheriff officer—

- (a) to take into possession, by force if necessary, anything liable to be taken in execution under this section and for that purpose to open shut and lockfast places; and
- (b) to sell anything so taken into possession by public auction after giving 6 days notice of the sale.”.

The Education (Scotland) Act 1980 (c. 44)

22 In paragraph 8 of Schedule 1 (local inquiries), for the words “a recorded decree arbitral” there shall be substituted the words “ an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland. ”.

The Betting and Gaming Duties Act 1981 (c. 63)

F1523

Textual Amendments
F15 Sch. 6 para. 23 repealed (1.7.1997) by 1997 c. 16, s. 113, Sch. 18, Pt. V(2); S.I. 1997/1433, art. 2

The British Fishing Boats Act 1983 (c. 8.)

24 In section 5(2)(a) (recovery of fines), for the word “poin ding” there shall be substituted the word “ arrestment ”.

The Inshore Fishing (Scotland) Act 1984 (c. 26.)

25 In section 8(2)(a) (recovery of fines), for the word “poin ding” there shall be substituted the word “ arrestment ”.

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The Rent (Scotland) Act 1984 (c. 58.)

- 26 For section 110 (restriction on diligence), there shall be substituted the following section—

“110 Restriction on sequestration for rent.

At any stage before the grant of a warrant of sale in an action of sequestration for payment, or in security, of rent of any dwelling-house let on a protected tenancy or subject to a statutory tenancy, the sheriff may sist the proceedings or adjourn them for such period or periods as he thinks fit, in order to enable the tenant to pay the rent in such manner as the sheriff may determine (whether by instalments or otherwise).”.

The Bankruptcy (Scotland) Act 1985 (c. 66)

- 27 In section 37 (effect of sequestration on diligence), after subsection (5) there shall be inserted the following subsection—

“(5A) Nothing in subsection (4) or (5) above shall apply to an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order.”.

- 28 In paragraph 24 of Schedule 7 (arrestments and poindings)—

(a) in sub-paragraph (3) after the words “a sale” there shall be inserted the words “ or receives payment in respect of a poinded article upon its redemption ”;

(b) at the end there shall be added the following sub-paragraph—

“(8) Nothing in this paragraph shall apply to an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order.”.

SCHEDULE 7

Section 108(2).

TRANSITIONAL PROVISIONS

- 1 Notwithstanding the repeal by this Act of subsection (4) of section 36 of the Sheriff Courts (Scotland) Act 1971—

(a) any direction made under that subsection which is in force immediately before the commencement of that repeal shall continue in force; and

(b) any summary cause action for payment which is pending immediately before such commencement shall proceed and be disposed of,

as if this Act had not been passed.

- 2 The sheriff may refuse to make a time to pay order if, on an objection being duly made in pursuance of section 6(6)(a) of this Act, he is satisfied that a direction has been made under section 36(4) of the said Act of 1971 whereby the debt concerned was payable by instalments, but the right to pay by instalments has ceased by reason of failure to pay an instalment.

- 3 Without prejudice to paragraphs 4 to 6 of this Schedule, a warrant issued before the commencement of Part VI of this Act, for the enforcement by diligence of an obligation to pay money, contained in an extract of a decree of the Court of Session or the sheriff court or of a document which has been registered in the Books of

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Council and Session or in sheriff court books shall be treated as if it were a warrant contained in such a decree granted after the commencement of that Part.

4 F16

Textual Amendments
F16 Sch. 7 para. 4 repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, Sch. 3 Pt. 1 para. 17(18) (with s. 63)

5 Nothing in this Act shall affect an arrestment of earnings in the hands of an employer which has been executed before the commencement of Part III of this Act nor preclude the bringing of an action of furthcoming in pursuance of such an arrestment or the granting of a decree in any such action.

6 Where an arrestment of a debtor’s earnings in the hands of an employer which has been executed before the commencement of Part III of this Act has effect in relation to earnings payable on the first pay-day occurring after such commencement, the execution of an earnings arrestment or a current maintenance arrestment against earnings payable to the debtor by the employer shall not be competent until after that pay-day.

7 (1) Subject to sub-paragraph (2) below, a summary warrant granted before the commencement of Schedules 4 and 5 to this Act under or by virtue of any of the enactments to which this paragraph applies shall be deemed to authorise only the following diligences—

- (a) F17
- (b) an earnings arrestment; and
- (c) an arrestment other than an arrestment of the debtor’s earnings in the hands of his employer.

(2) If at the commencement of those Schedules diligence executed in pursuance of a warrant referred to in sub-paragraph (1) above is in effect, that diligence shall proceed as if this Act had not been passed.

- (3) This paragraph applies to the following enactments—
- (a) section 247 of the M5Local Government (Scotland) Act 1947;
 - (b) section 63 of the M6Taxes Management Act 1970;
 - (c) section 33 of the M7Finance Act 1972;
 - (d) paragraph 16(2) of Schedule 7 to the Finance Act 1972;
 - (e) paragraph 3 of Schedule 1 to the M8Car Tax Act 1983;
 - (f) paragraph 6 of Schedule 7 to the M9Value Added Tax Act 1983.

Textual Amendments
F17 Sch. 7 para. 7(1)(a) repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, Sch. 3 Pt. 1 para. 17(18) (with s. 63)

Marginal Citations
M5 1947 c. 43.
M6 1970 c. 9.
M7 1972 c. 41.

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M8 1983 c. 53.

M9 1983 c. 55.

- 8 (1) Where before the commencement of paragraphs 21 and 23 of Schedule 6 to this Act—
- (a) a warrant has been granted under any of the enactments to which this paragraph applies; and
 - (b) no diligence has been executed in pursuance of the warrant, the warrant shall cease to have effect.
- (2) Where before the commencement of the said paragraphs 21 and 23—
- (a) a warrant has been granted under any of the enactments to which this paragraph applies; and
 - (b) diligence has been executed in pursuance of the warrant, the diligence shall proceed as if this Act had not been passed.
- (3) This paragraph applies to the following enactments—
- (a) section 253 of the ^{M10}Customs and Excise Act 1952;
 - (b) paragraph 10 of Schedule 2 to the ^{M11}Betting and Gaming Duties Act 1972;
 - (c) section 117 of the ^{M12}Customs and Excise Management Act 1979;
 - (d) section 29 of the ^{M13}Betting and Gaming Duties Act 1981.

Marginal Citations

M10 1952 c. 44.

M11 1972 c. 25.

M12 1979 c. 2.

M13 1981 c. 63.

- 9 (1) The provisions of this Act relating to the liability for the expenses of a diligence shall not apply in relation to a diligence to which this paragraph applies.
- (2) Section 93(1) or (2) of this Act shall not prevent a creditor taking proceedings in court to recover any expenses of a diligence to which this paragraph applies which are chargeable against the debtor.
- (3) Notwithstanding section 95 of this Act, a diligence to which this paragraph applies shall cease to have effect on payment or tender of the sum due under the decree or other document.
- (4) This paragraph applies to the following diligences—
- (a) ^{F18}
 - (b) an arrestment and action of furthcoming or sale; in effect at the commencement of sections 93 and 95 of this Act.

Textual Amendments

F18 Sch. 7 para. 9(4)(a) repealed (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, Sch. 3 Pt. 1 para. 17(18) (with s. 63)

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- 10 Until the commencement of the repeal of the ^{M14}Supplementary Benefits Act 1976 by Schedule 11 to the ^{M15}Social Security Act 1986 the said Act of 1976 shall have effect as if there were inserted after section 18 of that Act the new section set out in section 68 of this Act with the following modifications—
- (a) for “25A” there shall be substituted “18A”; and
 - (b) for references to income support there shall be substituted references to supplementary benefit.

Marginal Citations

M14 1976 c. 71.

M15 1986 c. 50.

SCHEDULE 8

Section 108.

REPEALS

1503 c. 45.	The Diligence Act 1503.	The whole Act.
1579 c. 13.	The Registration Act 1579.	The whole Act.
1579 c. 45.	The Hornings Act 1579.	The whole Act.
1581 c. 26.	The Convention of Burghs Act 1581.	The whole Act.
1584 c. 15.	The Execution of Decrees Act 1584.	The whole Act.
1587 c. 30.	The Officers of Arms Act 1587.	The whole Act.
1592 c. 29.	The Lyon King of Arms Act 1592.	In section (3) the words “messengeris and”, the words “and messengeris” and the words from “With power” to the end. In section (5) the words “and incarceration” and the words from “under the pane” to the end.
1593 c. 34.	The Hornings Act 1593.	The whole Act.
1600 c. 22.	The Hornings Act 1600.	The whole Act.
1607 c. 13.	The Convention of Burghs Act 1607.	The whole Act.
1621 c. 20.	The Hornings Act 1621.	The whole Act.
1661 c. 218.	The Poinding Act 1661.	The whole Act.
1669 c. 5.	The Poinding Act 1669.	The whole Act.

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1669 c. 95.	The Lyon King of Arms Act 1669.	The words from “the fourtie sext” to “Together also with”.
1672 c. 47.	The Lyon King of Arms Act 1672.	The words from “are judges” to “office and”.
1681 c. 5.	The Subscription of Deeds Act 1681.	The word “hornings”.
1681 c. 86.	The Bills of Exchange Act 1681.	The words from “Letters of horning” to “and other”.
20 Geo. 2 c. 43.	The Heritable Jurisdictions (Scotland) Act 1746.	Section 28.
20 Geo. 2 c. 50.	The Tenures Abolition Act 1746.	Sections 12 and 13.
5 Geo. 3 c. 49.	The Bank Notes (Scotland) Act 1765.	In section 6 the words from “issuing” to “all other”.
12 Geo. 3 c. 72.	The Bills of Exchange (Scotland) Act 1772.	In section 42 the words “by horning or other diligence”. In section 43 the words “by horning or other diligence”.
1 & 2 Vict. c. 114.	The Debtors (Scotland) Act 1838.	Sections 2 to 15. Sections 23 to 31. In section 32 the words “excepting in the case of poindings”. Section 35. All the Schedules.
9 & 10 Vict. c. 67.	The Citations (Scotland) Act 1846.	In section 1 the words “excepting only in cases of poinding as aforesaid”.
19 & 20 Vict. c. 56.	The Exchequer Court (Scotland) Act 1856.	In section 28 the words from “except that” to the end. Sections 29 to 34. Section 36. Section 42. Schedules G to K.
19 & 20 Vict. c. 91.	The Debts Securities (Scotland) Act 1856.	In section 6 the words “of hornings”.
33 & 34 Vict. c. 63.	The Wages Arrestment Limitation (Scotland) Act 1870.	The whole Act.
43 & 44 Vict. c. 34.	The Debtors (Scotland) Act 1880.	In section 4, the proviso, the words from “a warrant” to

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		“or under” and the words “or obligation”.
45 & 46 Vict. c. 42.	The Civil Imprisonment (Scotland) Act 1882.	Section 5.
55 & 56 Vict. c. 17.	The Sheriff Courts (Scotland) Extracts Act 1892.	Section 7(6).
10 & 11 Geo. 6 c. 43.	The Local Government (Scotland) Act 1947.	Sections 248 and 249.
		In section 250, the words from “together with” to “goods and effects” where second occurring.
		Sections 251 and 252.
10 & 11 Geo. 6 c. 44.	The Crown Proceedings Act 1947.	In section 46, proviso (a).
8 & 9 Eliz. 2 c. 21.	The Wages Arrestment Limitation Amendment (Scotland) Act 1960.	The whole Act.
1966 c. 19.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1966.	Sections 2 and 3.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 80, subsections (2) and (3).
1970 c. 36.	The Merchant Shipping Act 1970.	In section 11(1)(a), the words “or arrestment”.
1971 c. 58.	The Sheriff Courts (Scotland) Act 1971.	Section 36(4).
1973 c. 22.	The Law Reform (Diligence) (Scotland) Act 1973.	The whole Act.
1979 c. 39.	The Merchant Shipping Act 1979.	In section 39, subsection (2) and in subsection (3) the words “or arrestment” and the words from “and, as” to the end.
1979 c. 54.	The Sale of Goods Act 1979.	Section 40.
1984 c. 43.	The Finance Act 1984.	Section 16.

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