

2009 No. 3024 (C.131)

REVENUE AND CUSTOMS, SCOTLAND

**The Finance Act 2008, Section 128 and Part 2 of Schedule 43
(Appointed Day, Transitional Provision and Savings) Order
2009**

Made - - - -

9th November 2009

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 129(4) and (5) of the Finance Act 2008(a) make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as The Finance Act 2008, Section 128 and Part 2 of Schedule 43 (Appointed Day, Transitional Provision and Savings) Order 2009.

2. In this Order “FA 2008” means the Finance Act 2008.

Appointed day

3. The day appointed for the coming into force of Section 128 of, and Part 2 of Schedule 43 to, FA 2008 is 23rd November 2009.

Transitional Provision and Savings

4. —(1) If, before the commencement date, a warrant has been granted under—

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

(a) 2008 c. 9.

(b) 1970 c. 9; section 63 was substituted by paragraph 2 of Schedule 4 to the Debtors (Scotland) Act 1987 (c. 18) and amended by section 154 of the Finance Act 1989 (c. 26), paragraphs 123 and 133 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) and paragraph 5 of Schedule 12 to the Finance Act 2004 (c. 12).

(c) 1992 c. 5; section 121B was inserted by section 63 of the Social Security Act 1998 (c. 14) and amended by paragraph 9 of Schedule 5 to the Social Security Contributions (Transfer of Functions etc) Act 1999 (c. 2), section 61 of, and paragraph 21 of Part 1 of Schedule 3 to the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) and section 5(2) of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3).

(d) 1997 c.16; amended by paragraphs 7(1) and (3) of Schedule 7 to the Finance Act 2000 (c.17), paragraph 16 of Schedule 5 to the Finance Act 2001 (c. 9), section 61 of, and paragraph 26 of Part 1 of Schedule 3 to, the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) and section 226 of, and paragraph 24 of Schedule 5 to, the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

(e) 2003 c. 14.

that warrant shall continue to have effect according to the provisions under which it was granted.

5.—(1) The amendments made by paragraph 13(1) and (2) of Schedule 43 to FA 2008 to the Debtors (Scotland) Act 1987(a) shall not have effect in relation to—

- (a) actions commenced under section 1 (time to pay directions); or
- (b) applications made under section 5 (time to pay orders);

before the commencement date.

(2) The amendment made by paragraph 13(3) of Schedule 43 to FA 2008 to the definition of “summary warrant” in section 106 (interpretation) of the Debtors (Scotland) Act 1987 shall not apply to summary warrants granted before the commencement date.

Steve Lamey
Bernadette Kenny

9th November 2009 Two of the Lords Commissioners of Her Majesty’s Revenue & Customs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 23rd November 2009 as the date on which section 128 of, and Part 2 of Schedule 43 to, the Finance Act 2008 (c. 9) shall have effect.

Section 128 aligns and modernises HMRC’s powers to pursue debt in Scotland by allowing an officer to apply for warrant on behalf of the Commissioners for Revenue and Customs for debts arising from any of the taxes, duties etc administered by HMRC. Part 2 of Schedule 43 contains consequential amendments.

Articles 4 and 5 contain transitional provisions and savings which provide (1) that specified warrants granted, actions commenced and applications made before the commencement date shall continue to have effect according to the provisions in place at the time when they were granted, commenced or made and (2) that the amendments to the definition of “summary warrant” in section 106 of the Debtors (Scotland) Act 1987 (c.18) shall not apply to summary warrants granted before the commencement date.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is included in the impact assessment for the package containing the provisions commenced by this Order and is available at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.

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(a) 1987 c. 18.

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