



Abolition of Poindings and Warrant Sales Act 2001 2001 asp 1

The Bill for this Act of the Scottish Parliament was passed on 6th December 2000 and received Royal Assent on 17th January 2001

An Act of the Scottish Parliament to abolish poindings and warrant sales.

1 Abolition of poindings and warrant sales

- (1) It shall no longer be competent to enforce payment of a debt by poinding or warrant sale; and any enactment or rule of law allowing such enforcement shall cease to have effect.
- (2) The following provisions of the Debtors (Scotland) Act 1987 (c.18) shall cease to have effect—
 - (a) Part II;
 - (b) section 74(2);
 - (c) Schedule 1;
 - (d) Schedule 5; and
 - (e) the other provisions of that Act listed in Part 1 of the schedule to this Act.
- (3) In this section—

“debt” means any sum due by a debtor, including any sum due under a summary warrant, decree or other document (including any interest thereon and any expenses), any sum due by way of a fine or penalty or under an order of court in criminal proceedings and any other sum which, immediately prior to the coming into force of this section, was recoverable by poinding and warrant sale;

“debtor” includes any person or body of persons corporate or unincorporate;

“summary warrant” includes a summary warrant granted under or by virtue of any enactment;

“decree or other document” includes—

- (a) a decree, order or warrant of the Court of Session or the sheriff;
- (b) an extract of a document which is registered for execution in the Books of Council and Session or the sheriff court books;

- (c) an order or determination which by virtue of any enactment is enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff;
- (d) a civil judgment granted outside Scotland by a court, tribunal or arbiter which by any enactment or rule of law is enforceable in Scotland; and
- (e) a document or settlement which by virtue of an Order in Council made under section 13 of the Civil Jurisdiction and Judgments Act 1982 (c.27) is enforceable in Scotland;

“poinding” includes poinding of the ground;

“warrant sale” includes a sale in pursuance of a summary warrant.

2 Savings

- (1) Despite section 1 of this Act, the following enactments shall continue to have effect as they had effect immediately prior to the coming into force of that section—
 - (a) section 33(1)(a) of the Bankruptcy (Scotland) Act 1985 (c.66) (property exempted from poinding not to vest in permanent trustee on sequestration);
 - (b) section 99 of the Debtors (Scotland) Act 1987 (c.18) (which applies certain provisions of Part II of that Act in relation to sequestration for rent or feuduty and certain arrestments), except so far as it applies section 16(3) of that Act.
- (2) Despite section 1(3) of this Act, the provisions of the Debtors (Scotland) Act 1987 (c.18) mentioned in that section shall continue to have effect in relation to a debt in respect of which a warrant sale has been completed before the date on which that section comes into force.

3 Repeals

- (1) The enactments listed in Part 2 of the schedule are repealed to the extent specified in the second column.
- (2) The enactments listed in Part 3 of the schedule are revoked to the extent specified in the second column.

4 Commencement and short title

- (1) Sections 1, 2 and 3 and the schedule shall come into force on 31st December 2002 or such earlier date as the Scottish Ministers may, by order made by statutory instrument, appoint.
- (2) This Act may be cited as the Abolition of Poindings and Warrant Sales Act 2001.

SCHEDULE
(introduced by sections 1(2) and 3)

REPEALS AND REVOCATIONS

PART 1

REPEALS OF THE DEBTORS (SCOTLAND) ACT 1987

<i>Enactment</i>	<i>Extent of repeal</i>
Debtors (Scotland) Act 1987 (c.18)	<p>Section 2(1)(b)(ii).</p> <p>Section 5(5)(a).</p> <p>Section 8(1)(a).</p> <p>In section 9, subsections (1)(b)(ii) and (2)(d); in subsection (3), the words “a pouncing or” and the words “or the recall of the pouncing”; in subsection (4), the words “(d) or” and the words from “other than” to the end; in subsection (6), the words “(d) or”; subsection (8)(a); subsection (9); and, in subsection (12), the words from “and, notwithstanding” to the end.</p> <p>In section 10, in subsection (1)(b), the words “a pouncing or” and “recall the pouncing or”; and, in subsection (2), the words “a pouncing or”.</p> <p>In section 13(2), the words “or a pouncing” and the words “or pouncing” in both places where they occur.</p> <p>In section 15(1), the definition of “pouncing” and “pounded”.</p> <p>Part II.</p> <p>Section 74(2).</p> <p>In section 87, in subsection (2)(a), the words from “and the pouncing” to the end of the paragraph; and subsection (5).</p> <p>In section 90(1), (2), (5) and (6), the words “a pouncing or”.</p> <p>In section 93, subsection (1)(a).</p> <p>Section 94(1)(a).</p> <p>Section 95(1)(a).</p>

<i>Enactment</i>	<i>Extent of repeal</i>
	<p>In section 103(1), the words “21(1), 27(4), 43(5)” and “and paragraphs 6(1), 11(4) and 14(5) of Schedule 5 thereto”.</p> <p>In section 103(7), paragraphs (a) to (j) and (q).</p> <p>In section 104, in subsection (1), the words “except as provided in subsection (2) below,”, and subsection (2).</p> <p>In section 106, the definition of “warrant of sale”.</p> <p>Schedules 1 and 5.</p> <p>In Schedule 7, paragraphs 4, 7(1)(a) and 9(4)(a).</p>

PART 2

OTHER REPEALS

<i>Enactment</i>	<i>Extent of repeal</i>
Writs Execution (Scotland) Act 1877 (c. 40)	In section 3(a), the words from “and the poiding” to the end of the paragraph.
Sheriff Courts (Scotland) Extracts Act 1892 (c.17)	In section 7(1)(a), the words from “and the poiding” to the end of the paragraph.
Local Government (Scotland) Act 1947 (c.43)	Section 247(3)(a). In section 247A(1), the words from “and without prejudice” to “poiding and sale”.
Taxes Management Act 1970 (c.9)	Section 63(2)(a). In section 63A(1), the words from “and without prejudice” to “poiding and sale”.
Car Tax Act 1983 (c.53)	Section 64(2). In Schedule 1, in paragraph 3, sub-paragraph (4)(a) and, in sub-paragraph (5), the words from “and without prejudice” to “poiding and sale”.
Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47)	In Schedule 2, paragraph 7(3)(a) and, in paragraph 8(1), the words from “ and without prejudice” to “1987”.
Income and Corporation Taxes Act 1988 (c.1)	In Schedule 16, in paragraph 6(5), the words “or poiding”.
Child Support Act 1991 (c.48)	Section 38(1)(a).

<i>Enactment</i>	<i>Extent of repeal</i>
Social Security Administration Act 1992 (c.5)	In section 121B, subsection (1)(a) and, in subsection (4), the words from “and without prejudice” to “poinding and sale”.
Local Government Finance Act 1992 (c.14)	In Schedule 8, paragraph 2(3)(a) and, in paragraph 4(1), the words from “and without prejudice” to “1987”.
Local Government etc. (Scotland) Act 1994 (c.39)	In Schedule 10, paragraph 2(3)(a) and, in paragraph 4(1), the words from “and without prejudice” to “1987”.
Finance Act 1997 (c.16)	In section 52, subsection (2)(a) and, in subsection (3), the words from “and without prejudice” to “poinding and sale”.

PART 3

REVOCATIONS

<i>Enactment</i>	<i>Extent of revocation</i>
Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711)	In Part II of the Schedule, in the provisions of the Taxes Management Act 1970 (c.9) restated for the purposes of the Regulations, section 63(2)(a) and, in section 63A(1), the words from “and without prejudice” to “poinding and sale”.
Gilt-edged Securities (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3224)	In Regulation 17(5), the words “or poinding”.
Lloyd’s Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3225)	In Regulation 9(5), the words “or poinding”.
Stamp Duty (Collection and Recovery of Penalties) Regulations 1999 (S.I. 1999/2537)	In Part II of the Schedule, in the provisions of the Taxes Management Act 1970 (c.9) restated for the purposes of the Regulations, section 63(2)(a) and, in section 63A(1), the words from “and without prejudice” to “poinding and sale”.