



Taxes Management Act 1970

1970 CHAPTER 9

PART VI

COLLECTION AND RECOVERY

60 Issue of demand notes and receipts

- (1) Every collector shall, when the tax becomes due and payable, make demand of the respective sums given to him in charge to collect, from the persons charged therewith, or at the places of their last abode, or on the premises in respect of which the tax is charged, as the case may require.
- (2) On payment of the tax, the collector shall if so requested give a receipt.

Distraint and poinding

61 Distraint by collectors

- (1) if a person neglects or refuses to pay the sum charged, upon demand made by the collector, the collector shall, for non-payment thereof, distraint upon the lands, tenements and premises in respect of which the tax is charged, or distraint the person charged by his goods and chattels, and all such other goods and chattels as the collector is hereby authorised to distraint.
- (2) For the purpose of levying any such distress, a collector may, after obtaining a warrant for the purpose signed by the General Commissioners, 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.

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- (4) A distress levied by the collector shall be kept for five days, at the costs and charges of the person neglecting or refusing to pay.
- (5) If the person aforesaid does not pay the sum due, together with the costs and charges, within the said five days, the distress shall be appraised by two or more inhabitants of the parish in which the distress is taken, or by other sufficient persons, and shall be sold by public auction by the collector for payment of the sum due and all costs and charges.

The costs and charges of taking, keeping, and selling the distress shall be retained by the collector, and 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.

62 Priority of claim for tax

- (1) No goods or chattels whatever, belonging to any person at the time any tax becomes in arrear, shall be 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, unless 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 arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made:

Provided that, where tax is claimed for more than one year, the person at whose instance the seizure has been made may, on paying to the collector the tax which is due for one whole year, proceed in his seizure in like manner as if no tax had been claimed.

- (2) In case of neglect or refusal to pay the tax so claimed or the tax for one whole year, as the case may be, the collector shall distrain the goods and chattels notwithstanding the seizure or assignment, and shall proceed to the sale thereof, as prescribed by this Act, for the purpose of obtaining payment of the whole of the tax charged and claimed, and the reasonable costs and charges attending such distress and sale, and every collector so doing shall be indemnified by virtue of this Act.

63 Recovery in Scotland

In Scotland, the following provisions shall have effect—

- (1) Upon certificate made to them by the collector that any tax is due and not paid, the General Commissioners, or sheriff or sheriff substitute for the county, shall issue a warrant for the collector recovering the said tax by pointing the goods and effects of any person entered in the certificate as being a defaulter, and any person who has made default in paying any sum which may be levied on him in respect of tax may be entered in the certificate as a defaulter, notwithstanding that he was not named in the assessment to tax:
- (2) The warrant shall be executed by the sheriff officers of the county:
- (3) The goods and effects so pointed shall be detained and kept on the ground, or at the house where the same were pointed, or in such other place of which the owner shall have notice, near to the said ground or house, as the officer so pointing the same shall think proper, for the space of five days, during which time the said goods and effects shall remain in the custody of the said officer, and liable to the payment of the

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whole tax in arrear and to the costs to be paid to the officer who pounded the same as hereinafter directed, unless the owner from whom the same were pounded shall redeem the same, within the said space of five days, by payment to the officer of the said tax in arrear and costs, to be settled in the same manner as if the said goods and effects had been sold as hereinafter directed:

- (4) The goods and effects so pounded shall, after the expiration of the said five days, be valued and appraised by any two persons to be appointed by the officer (which two persons shall be obliged to value the same, under the penalty of £2 for each neglect or refusal), and shall be sold and disposed of, at a sum not less than the value, by the officer who does pound the same:
- (5) The value shall be applied, in the first place to the satisfaction and payment of the tax owing by the person whose goods are so pounded, and, in the second place, to the payment for the trouble of the officer so pouncing, at the rate of two shillings per pound of the tax for which the goods shall be so pounded unless the owner from whom the same were pounded shall redeem the same by payment of the appraised value, within the space of five days after the valuation, to the officer who pounded the same:
- (6) In case any surplus remains of the price or value, after payment of the said tax, and after payment of what is allowed to be retained by the officer in manner herein directed, such surplus shall be returned to the owner from whom the goods were pounded:
- (7) In case no purchaser appears at the said sale, then the said goods and effects, so pounded, shall be consigned and lodged in the hands of the sheriff of the county, or his substitute, and if not redeemed by the owner within the space of five days after the consignment in the hands of the said sheriff or sheriff substitute, the same shall be roused, sold, and disposed of by order of the sheriff, in such manner, and at such time and place, as he shall appoint, he always being liable to the payment of the tax to the collector, and to payment to the officer who shall have pounded the same, for his trouble and expense, as before stated, and to the fees due to the officer, and being, in the third place, entitled to one shilling per pound of the value of the goods so disposed of, for his own pains and trouble, after preference and allowance of the said tax, and of what is appointed to be paid to the officer for his trouble:
- (8) There shall also be allowed, to the officer so pouncing, the expense of preserving the said goods and effects, and of maintaining the cattle, if there should happen to be any among the goods and effects so pounded, from the time of pouncing the same, during the period allowed to the owner to redeem them, and also the expense of the sale; and in like manner the expense shall be allowed to the sheriff or sheriff substitute, for preserving and maintaining the goods or cattle pounded, during the period that the owner is allowed to redeem, after consignment in his hands, and until the sale thereof, and also the expense of the sale:
- (9) Every auctioneer, or seller by commission, selling by auction, in Scotland, any goods or effects whatsoever by any mode of sale at auction, shall, at least three days before he begins any sale by way of auction, deliver or cause to be delivered to the collector a notice in writing, signed by such auctioneer or seller by auction, specifying therein the particular day when such sale is to begin, and the name and surname of the person whose goods and effects are to be sold, with his place of residence:
- (10) If any such auctioneer or seller by auction shall sell any such goods and effects by way of auction, without delivering the notice hereinbefore required to be delivered, every such auctioneer, or person selling by auction, offending therein shall, for every such offence, incur a penalty of £50.

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64 Priority of claim for tax in Scotland

- (1) No moveable goods and effects belonging to any person in Scotland, at the time any tax became in arrear or was payable, shall be liable to be taken by virtue of any pointing, sequestration for rent, or diligence whatever, or by any assignment, unless the person proceeding to take the said goods and effects pays the tax so in arrear or payable:

Provided that where the tax is claimed for more than one year the person proceeding to take the said goods and effects may on paying the tax for one whole year proceed as he might have done if no tax had been so claimed.

- (2) If the said person neglects or refuses to pay the tax so in arrear or payable, or the tax for one whole year, as the case may be, the tax claimed shall, notwithstanding any proceeding at his instance for the purpose of taking the said moveable goods and effects, be recoverable by pointing and selling the said moveable goods and effects under warrant obtained in conformity with the provisions contained in section 63 above.

Court proceedings

65 Magistrates' courts

- (1) Where—
- (a) the amount of any tax for the time being due and payable under any assessment is less than £50, or
 - (b) the tax under any assessment is payable by instalments and the sum for the time being due and payable in respect of any of those instalments is less than £50,

the tax shall, without prejudice to any other remedy, be recoverable summarily as a civil debt by proceedings commenced in the name of a collector.

- (2) All or any of the sums due in respect of tax from any one person and payable to any one collector (being sums which are by law recoverable summarily) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before justices or to be issued by justices, and every such document as aforesaid shall, as respects each such sum, be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.
- (3) Proceedings under this section for the recovery of any tax charged under Schedule E may be brought in England and Wales at any time within one year from the time when the matter complained of arose.
- (4) It is hereby declared that in subsection (1) above the expression "recoverable summarily as a civil debt" in respect of proceedings in Northern Ireland means recoverable in the manner provided by the Summary Jurisdiction Acts for the recovery of sums declared under enactments of the Parliament of Northern Ireland to be a debt recoverable summarily.

66 County courts

- (1) Where the amount of tax for the time being due and payable under any assessment does not exceed the limit specified in section 40(1)(b) of the County Courts Act 1959

(money recoverable by statute), as for the time being in force, the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings in a county court commenced in the name of a collector.

- (2) Any barrister who is an officer of the Board may appear in, conduct, defend and address the court in any legal proceedings under this section in a county court in England or Wales.
- (3) In the application of subsection (1) of this section to Northern Ireland, for the reference to section 40(1)(b) of the County Courts Act 1959 there shall be substituted a reference to section 10(1) of the County Courts Act (Northern Ireland) 1959, and in this section as it applies in Northern Ireland the expression " county court " shall mean a county court held for a division under that Act.
- (4) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this section, and Part III of the County Courts Act (Northern Ireland) 1959 (general civil jurisdiction) shall apply for the purposes of this section in Northern Ireland.

67 Inferior courts in Scotland

- (1) In Scotland, where the amount of tax for the time being due and payable under any assessment does not exceed £250 the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings commenced in the name of a collector in the sheriff court or in the sheriff's small debt court, whichever is appropriate.
- (2) Sections 65 and 66 above shall not apply in Scotland.

68 High Court, etc.

- (1) Any tax may be sued for and recovered from the person charged therewith in the High Court as a debt due to the Crown, or by any other means whereby any debt of record or otherwise due to the Crown can, or may at any time, be sued for and recovered, as well as by the other means specially provided by this Act for levying the tax.
- (2) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer.

Supplemental

69 Interest on tax

Interest charged under Part IX of this Act shall be treated for the purposes—

- (a) of sections 61, 63 and 65 to 68 above, and
- (b) of section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court to impose restrictions on set-off and counterclaim where the proceedings or set-off or counterclaim relate to taxes) and of any rules of court (including county court rules) for England and Wales or Northern Ireland, which impose such a restriction, and
- (c) of section 35(2)00 of the said Act of 1947 as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland),

as if it were tax charged and due and payable under the assessment to which it relates.

70 Evidence

- (1) Where tax is in arrear, a certificate of the inspector or any other officer of the Board that tax has been charged and is due, together with a certificate of the collector that payment of the tax has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown ; and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate until the contrary is proved.
- (2) A certificate of a collector that interest is payable under section 86 or 87 of this Act and that payment of the interest has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown, and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.
- (3) A certificate by the General or Special Commissioners that the tax or a specified part of the tax charged by an assessment specified in the certificate carries interest under section 88 of this Act from a date so specified shall be sufficient evidence of that fact in proceedings for the recovery of that interest. A certificate under this subsection shall not be given except on the application of the inspector or the Board, and on any such application the person charged by the assessment (or, if he has died, his personal representatives) shall be entitled to appear and be heard.
- (4) A written statement as to the wages, salaries, fees, and other emoluments paid for any period to the person against whom proceedings are brought under section 65, 66 or 67 of this Act, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer, shall in such proceedings be prima facie evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.