

## SCHEDULES

### SCHEDULE 10

Section 79(4).

#### RECOVERY BY DILIGENCE OF CHARGES PAYABLE TO A COLLECTING AUTHORITY BY VIRTUE OF SECTION 79

- 1 (1) This Schedule applies to any sum which has become payable to a collecting authority by virtue of section 79 of this Act and has not been paid.
- (2) References in sub-paragraph (1) above to a sum which has become payable and has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid.
- 2 (1) Subject to sub-paragraphs (4) and (5) below, any sum to which this Schedule applies may be recovered by the collecting authority by diligence—
  - (a) authorised by a summary warrant granted under sub-paragraph (2) below; or
  - (b) in pursuance of a decree granted in an action of payment.
- (2) The sheriff, on an application by the authority which is accompanied by a certificate from them containing such particulars as may be prescribed by the Secretary of State by regulations, shall grant a summary warrant in a form provided for by Act of Sederunt authorising the recovery, by way of any of the diligences mentioned in sub-paragraph (3) below, of the amount of the sum remaining due and unpaid along with a surcharge of 10 per cent. of that amount.
- (3) The diligences referred to in sub-paragraph (2) 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.
- (4) It shall be incompetent for the sheriff to grant a summary warrant under sub-paragraph (2) above in respect of any sum to which this Schedule applies if an action has already been raised for the recovery of that sum; and, without prejudice to sub-paragraph (5) below, on the raising of an action for the recovery of any such sum, any existing summary warrant, in so far as it relates to the recovery of that sum, shall cease to have effect.
- (5) It shall be incompetent to raise an action in Scotland for the recovery of any sum to which this Schedule applies if, in pursuance of a summary warrant, any of the diligences mentioned in sub-paragraph (3) above for the recovery of that sum has been executed.
- (6) The Secretary of State may by order substitute another percentage for the percentage which is for the time being mentioned in sub-paragraph (2) above.
- (7) The power to make regulations under sub-paragraph (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution

of either House of Parliament; and a statutory instrument containing an order made under sub-paragraph (6) above shall be so subject.

- 3      No misnomer or inaccurate description of any person or place, or mistake or informality, in any notice or other document or communication relating to a demand for, or the recovery of, charges payable to the collecting authority by virtue of section 79 of this Act or in any proceedings for the payment of such charges shall prejudice such recovery.
- 4      (1) Subject to sub-paragraph (2) below, and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987, the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant under paragraph 2 above shall be chargeable against the debtor.
- (2) No fees shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the collecting authority for, the sums paid to him by the debtor in satisfaction of an amount owing to the authority by way of charges payable to them by virtue of section 79 of this Act.