
STATUTORY INSTRUMENTS

1994 No. 1774

The Insurance Premium Tax Regulations 1994

PART VIII

DISTRESS AND DILIGENCE

Distress

42.—(1) Subject to paragraph (2) below, if upon written demand a person neglects or refuses to pay any tax due from him or any amount recoverable as if it were tax due from him, a Collector or an officer of rank not below that of Higher Executive Officer may distrain on the goods and chattels of that person and by warrant signed by him direct any authorised person to levy such distress.

(2) Where—

- (a) the amount in relation to which a warrant has been issued under paragraph (1) above is not an amount assessed under section 56(1) of the Act upon failure to make a return; and
- (b) the Commissioners may be required under section 59 of the Act to review a decision which, if that decision were varied or withdrawn, would cause the amount in relation to which the warrant has been issued to be reduced or extinguished,

no distress shall be levied before the last day on which the person who is liable to pay the amount concerned is required, by rules made under paragraph 9 of Schedule 8 to the Value Added Tax Act 1983(1), to serve a notice of appeal with respect to that decision.

(3) A levy shall be executed by or under the direction of, and in the presence of, the authorised person.

(4) A person in respect of whose goods and chattels a warrant has been signed shall be liable for all costs and charges in connection with anything done under this regulation.

(5) If the person aforesaid does not pay the amount due together with the costs and charges within five days of a levy, the distress shall be sold by the authorised person for payment of the amount due and all costs and charges; and costs and charges of taking, keeping and selling the distress shall be retained by the authorised person and any surplus remaining after the deduction of the costs and charges and of the amount due shall be restored to the owner of the goods distrained.

Diligence

43.—(1) This regulation applies in respect of Scotland.

(2) Subject to paragraphs (3) and (4) below, where any tax or any sum recoverable as if it were 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 or other sum due from him;

(1) 1983 c. 55; paragraph 9 was amended by section 27 of, and Part IV of Schedule 27 to, the Finance Act 1985 (c. 54).

- (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 poinding, sale and disposal of proceeds of sale, in accordance with Schedule 5 to the Debtors (Scotland) Act 1987(2), of the amount remaining due and unpaid.

(3) Where—

- (a) the amount in relation to which the demand referred to in paragraph (1) above has been made is not an amount assessed under section 56(1) of the Act upon failure to make a return; and
- (b) the Commissioners may be required under section 59 of the Act to review a decision which, if that decision were varied or withdrawn, would cause the amount in relation to which the demand has been made to be reduced or extinguished,

no application for a summary warrant under paragraph (2) above shall be made before the last day on which the person who is liable to pay the amount concerned is required, by rules made under paragraph 9 of Schedule 8 to the Value Added Tax Act 1983, to serve a notice of appeal with respect to that decision.

(4) Any application under paragraph (2) above, and any certificate required to accompany such an application, shall be made by a Collector or an officer of rank not below that of Higher Executive Officer.

(5) Subject to paragraph (6) 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 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) Where, during the course of a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987, the Commissioners are entitled as a creditor to do any act, then any such act, with the exception of the exercise of the power contained in paragraph 18(3) of that Schedule, shall be done by a Collector or an officer of rank not below that of Higher Executive Officer.