



Debtors (Scotland) Act 1987

CHAPTER 18

DEBTORS (SCOTLAND) ACT 1987

PART I

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- 4 Lapse of time to pay direction.

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- 5 Time to pay orders.
- 6 Application for time to pay order.
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Status: Point in time view as at 22/08/1996.

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- 65 Operation of conjoined arrestment order.
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- 73 Interpretation of Part III.

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- 74 Recovery of rates and taxes etc.

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- 93 Recovery from debtor of expenses of certain diligences.
- 94 Ascription of sums recovered by diligence or while diligence is in effect.
- 95 Certain diligences terminated by payment or tender of full amount owing.
- 96 Provisions to assist debtor in proceedings under Act.
- 97 In relation to any proceedings before the sheriff under any...
- 98 At the end of Part II of Schedule 2 to...
- 99 (1) Sections 16 to 18, 23 and 26 of this...
- 100 (1) An obligation ad factum praestandum which is contained in...
- 101 It shall not be competent for a creditor to bring...
- 102 Procedure in diligence proceeding on extract of registered document etc.
- 103 Appeals.
- 104 Regulations.
- 105 Application to Crown.
- 106 Interpretation.
- 107 Financial provisions.
- 108 Minor and consequential amendments, transitional provisions and repeals.

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109 Short title, commencement and extent.

SCHEDULES

SCHEDULE 1 — EXPENSES OF POINDING AND SALE

Expenses chargeable against the debtor

- 1 (1) Subject to paragraphs 2, 3 and 5 to 7...
- 2 Where a warrant of sale is varied under section 35...
- 3 Where arrangements for a sale are cancelled under subsection (1)...
- 4 Where a warrant of sale is varied under section 35...
- 5 Subject to paragraph 6 below, where any such further poinding...
- 6 Where any such further poinding as is mentioned in subsection...
- 7 Where a new date is arranged under section 35(10) of...

Circumstances where liability for expenses is at the discretion of the sheriff

- 8 The liability for any expenses incurred by the creditor or...

Calculation of amount chargeable against debtor under the foregoing provisions

- 9 Expenses— (a) chargeable against the debtor by virtue of any...

Circumstances where no expenses are due to or by either party

- 10 Subject to paragraph 11 below, the debtor shall not be...
- 11 If— (a) an application mentioned in paragraph 10(a) above is...

Supplementary

- 12 Any expenses chargeable against the debtor by virtue of any...

SCHEDULE 2 — ARRESTMENT

SCHEDULE 3 — DISBURSEMENTS BY SHERIFF CLERKS UNDER CONJOINED ARRESTMENT ORDER

- 1 Where all the debts are ordinary debts, in every disbursement...
- 2 Where all the debts are current maintenance, then, in any...
- 3 Subject to paragraph 4 below, where the debts comprise both...
- 4 If the sum available for any disbursement is insufficient to...
- 5 For the purposes of this Schedule, the amount of an...

SCHEDULE 4 — RECOVERY OF RATES AND TAXES ETC.

The Local Government (Scotland) Act 1947 (c. 43.)

- 1 (1) For section 247 there shall be substituted the following...

The Taxes Management Act 1970 (c. 9.)

- 2 For section 63 there shall be substituted the following sections—...

The Car Tax Act 1983 (c. 53.)

- 3 In paragraph 3(2) of Schedule 1 (recovery of car tax),...

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The Value Added Tax Act 1983 (c. 55.)

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SCHEDULE 5 — POINDINGS AND SALES IN PURSUANCE OF SUMMARY WARRANTS

Articles exempt from poinding

1 (1) The following articles belonging to a debtor shall be...

Restrictions on time when poinding may be executed

2 (1) No poinding shall be executed on Sunday, Christmas Day,...

Power of entry for execution of poinding

3 (1) Subject to sub-paragraph (2) below, notwithstanding any warrant authorising...

Value of articles which may be poinded and presumption as to ownership

4 (1) The sheriff officer shall be entitled to poind articles...

Poinding procedure

5 (1) The procedure in a poinding shall be in accordance...

6 (1) The sheriff, on an application by the creditor, the...

Release of poinded article on ground of undue harshness

7 (1) The sheriff may, on an application made within 14...

Invalidity, cessation and recall of poinding

8 (1) If, at any time before the sale of the...

Second poinding in same premises

9 Subject to paragraph 7(2) above and paragraphs 12(2) and (6),...

Sist of proceedings in poinding of mobile homes

10 (1) Where a caravan, houseboat or other moveable structure which...

Duration of poinding

11 (1) Subject to sub-paragraphs (2), (3) and (5) below, a...

Removal, damage or destruction of poinded articles

12 (1) The debtor or the person in possession of poinded...

13 (1) The wilful damage or destruction of poinded articles by—...

Arrangements for sale

14 (1) A sale in pursuance of a summary warrant shall...

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Release or redemption of poinded articles

15 (1) Where a sale of poinded articles is to be...

Intimation and publication of sale

16 (1) The sheriff officer who makes arrangements for the sale...

Alteration of arrangements for sale

17 (1) Subject to sub-paragraph (2) below and without prejudice to...

The sale

18 (1) In the sale there shall be no reserve price...

Disposal of proceeds of sale

19 The sheriff officer who arranges the sale shall dispose of...

Report of sale

20 (1) The sheriff officer who arranged the sale shall within...

Articles belonging to third parties or in common ownership

21 (1) A sheriff officer may, at any time after the...

22 (1) Articles which are owned in common by a debtor...

Certain proceedings under this Schedule to postpone further steps in the diligence

23 (1) Where an application under any of the provisions of...

Power to enter premises and open shut and lockfast places

24 A summary warrant shall contain a warrant authorising a sheriff...

Expenses chargeable against the debtor

25 (1) Subject to paragraphs 26 to 29 below, there shall...

26 Where arrangements for a sale are cancelled under sub-paragraph (4)...

27 Subject to paragraph 28 below, where any such further poinding...

28 Where any such further poinding as is mentioned in sub-paragraph...

29 Where a new date is arranged under paragraph 17(2) above...

Circumstances where liability for expenses is at the discretion of the sheriff

30 The liability for any expenses incurred by the creditor or...

Calculation of amount chargeable against debtor under the foregoing provisions

31 Expenses awarded by the sheriff against the debtor in favour...

Circumstances where no expenses are due to or by either party

32 Subject to paragraph 33 below, the debtor shall not be...

33 If— (a) an application mentioned in paragraph 32(a) above is...

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Supplementary

- 34 Any expenses chargeable against the debtor by virtue of any...
35 In this Schedule—“creditor” means— (a) for the purposes of...

SCHEDULE 6 — MINOR AND CONSEQUENTIAL AMENDMENTS

General amendment

- 1 Any reference in any enactment to an order being enforceable...

Specific amendments

The Bank Notes (Scotland) Act 1765 (c. 49.)

- 2

The Debtors (Scotland) Act 1838 (c. 114.)

- 3 At the end of section 22 (arrestment to prescribe in...

The Harbours, Docks, and Piers Clauses Act 1847 (c. 27.)

- 4 In section 57 (unserviceable vessels to be altogether removed from...

The Lyon King of Arms Act 1867 (c.17)

- 5 In section 2 (admittance to office of messengers-at-arms), for the...

The Court of Session Act 1868 (c. 100)

- 6 At the end of section 14 (induciae of summonses and...

The Titles to Land Consolidation (Scotland) Act 1868 (c. 101)

- 7 In section 138 (import of short clauses of consent to...

The Debtors (Scotland) Act 1880 (c. 34)

- 8 In section 4 (abolition of imprisonment for debt, with certain...

The Sea Fisheries Act 1883 (c. 22.)

- 9 In section 20(2) (masters of boats liable to fines imposed),...

The Merchant Shipping Act 1894 (c. 60.)

- 10 In section 693 (sums ordered to be leviable by poinding...

The Execution of Diligence (Scotland) Act 1926 (c. 16)

- 11 In section 1 (sheriff officer to have the powers of...
12 In section 2(1)(b) (execution of arrestment or charge by registered...

The Sea Fisheries Act 1968 (c. 77.)

- 13 In section 12(2)(a) (recovery of fines imposed on master, etc....

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The Prevention of Oil Pollution Act 1971 (c. 60.)

14 In section 20(1) (enforcement and application of fines), for the...

The Town and Country Planning (Scotland) Act 1972 (c. 52)

15 In section 267(8) (local inquiries), for the words “a recorded...

The Consumer Credit Act 1974 (c. 69)

16 After section 93 there shall be inserted the following section—...

17 In section 129 (time orders)— (a) at the beginning of...

The Criminal Procedure (Scotland) Act 1975 (c. 21)

18 In section 411 (recovery by civil diligence), in subsection (1)...

The Crofting Reform (Scotland) Act 1976 (c. 21)

19 In section 17(1) (extension of powers of Land Court), for...

The Patents Act 1977 (c. 37)

20 In section 93(b) and 107(3) (orders for expenses), for the...

The Customs and Excise Management Act 1979 (c. 2)

21 In section 117 (execution and diligence against revenue traders), for...

The Education (Scotland) Act 1980 (c. 44)

22 In paragraph 8 of Schedule 1 (local inquiries), for the...

The Betting and Gaming Duties Act 1981 (c. 63)

23 Section 29 (recovery of duty in Scotland), shall have effect...

The British Fishing Boats Act 1983 (c. 8.)

24 In section 5(2)(a) (recovery of fines), for the word “poinding”...

The Inshore Fishing (Scotland) Act 1984 (c. 26.)

25 In section 8(2)(a) (recovery of fines), for the word “poinding”...

The Rent (Scotland) Act 1984 (c. 58.)

26 For section 110 (restriction on diligence), there shall be substituted...

The Bankruptcy (Scotland) Act 1985 (c. 66)

27 In section 37 (effect of sequestration on diligence), after subsection...

28 In paragraph 24 of Schedule 7 (arrestments and poindings)—

SCHEDULE 7 — TRANSITIONAL PROVISIONS

1 Notwithstanding the repeal by this Act of subsection (4) of...

2 The sheriff may refuse to make a time to pay...

3 Without prejudice to paragraphs 4 to 6 of this Schedule,...

4 Nothing in Part II of this Act shall affect a...

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- 5 Nothing in this Act shall affect an arrestment of earnings...
- 6 Where an arrestment of a debtor's earnings in the hands...
- 7 (1) Subject to sub-paragraph (2) below, a summary warrant granted...
- 8 (1) Where before the commencement of paragraphs 21 and 23...
- 9 (1) The provisions of this Act relating to the liability...
- 10 Until the commencement of the repeal of the Supplementary Benefits...

SCHEDULE 8 — REPEALS

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