



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER IV

#### MANAGEMENT

##### *Distress and poinding etc.*

#### **152 Distress for non-payment of tax.**

- (1) Section 61 of the <sup>M1</sup>Taxes Management Act 1970 (distress) shall be amended as follows.
- (2) In subsection (1), for the words “the collector shall” onwards there shall be substituted the words “the collector may distrain upon the goods and chattels of the person charged (in this section referred to as “the person in default”).”
- (3) In subsection (2), for the words from “a collector” to “Commissioners” there shall be substituted the words “a justice of the peace, on being satisfied by information on oath that there is reasonable ground for believing that a person is neglecting or refusing to pay a sum charged, may issue a warrant in writing authorising a collector to”.
- (4) In subsection (4), for the words “neglecting or refusing to pay” there shall be substituted the words “in default”.
- (5) In subsection (5)—
  - (a) for the word “aforesaid” there shall be substituted the words “in default”,
  - (b) the words “within the said five days” shall be omitted,

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Distress and poinding etc.. (See end of Document for details)*

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- (c) for the words from “two or more inhabitants of the parish” to “sufficient persons” there shall be substituted the words “one or more independent persons appointed by the collector”, and
  - (d) the words from “The costs” to “the collector, and” shall be omitted.
- (6) The following subsection shall be added after that subsection—
- “(6) The Treasury may by regulations make provision with respect to—
- (a) the fees chargeable on or in connection with the levying of distress, and
  - (b) the costs and charges recoverable where distress has been levied; and any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (7) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

**Marginal Citations**

**M1** 1970 c. 9.

**153 Priority in cases of distraint by others.**

- (1) Section 62 of the <sup>M2</sup>Taxes Management Act 1970 (priority of claim for tax) shall be amended as follows.
- (2) In subsection (1)—
  - (a) for the words from the beginning to “shall be” there shall be substituted the words “If at any time at which any goods or chattels belonging to any person (in this section referred to as “the person in default”) are”,
  - (b) for the word “unless” there shall be substituted the words “the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods or chattels may not be so taken unless on demand made by the collector”, and
  - (c) for the words “arrears of tax” onwards there shall be substituted the words “such sums as have fallen due at or before the date of seizure.”
- (3) The following subsection shall be inserted after that subsection—
 

“(1A) The sums referred to in subsection (1) above are—

  - (a) sums due from the person in default on account of deductions of income tax from emoluments paid during the period of twelve months next before the date of seizure, being deductions which the person in default was liable to make under section 203 of the principal Act (pay as you earn) less the amount of the repayments of income tax which he was liable to make during that period; and
  - (b) sums due from the person in default in respect of deductions required to be made by him for that period under section 559 of the principal Act (sub-contractors in the construction industry).”
- (4) In subsection (2)—

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- (a) for the words from the beginning to “the collector shall” there shall be substituted the words “If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the collector may”,
- (b) for the words “shall proceed” there shall be substituted the words “may proceed”, and
- (c) for the words “the tax charged and claimed” there shall be substituted the words “those sums”.

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**Marginal Citations**

M2 1970 c. 9.

**154 Recovery of tax from debtor in Scotland.**

- (1) Section 63 of the <sup>M2</sup>Taxes Management Act 1970 (recovery of tax in Scotland) shall be amended as follows.
- (2) In subsection (3), for the words “which relates to” onwards there shall be substituted the words “insofar as it relates to sums due in respect of—
  - (a) deductions of income tax which any person specified in the application was liable to make under section 203 of the principal Act (pay as you earn); or
  - (b) deductions required to be made under section 559 of the principal Act (sub-contractors in the construction industry) by any person specified in the application.”
- (3) The following subsection shall be added after that subsection—
  - “(4) In this section references to amounts of tax due and references to sums due in respect of deductions include references to amounts which are deemed to be—
    - (a) amounts of tax which the person is liable to pay by virtue of the Income Tax (Employments) Regulations 1973; or
    - (b) amounts which the person is liable to pay by virtue of the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975.”

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**Marginal Citations**

M3 1970 c. 9.

**155 Priority in cases of poinding etc. by others in Scotland.**

- (1) Section 64 of the Taxes Management Act 1970 (priority of claim for tax in Scotland) shall be amended as follows.
- (2) In subsection (1)—
  - (a) for the words from the beginning to “shall be” there shall be substituted the words “If at any time at which any moveable goods and effects belonging to any person (in this section referred to as “the person in default”) are”,

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- (b) for the word “unless” there shall be substituted the words “theperson in default is in arrears in respect of any such sums as are referredto in subsection (1A) below, the goods and effects may not be so taken unlesson demand made by the collector”, and
  - (c) for the words “the tax so in arrear” onwards there shall besubstituted the words “such sums as have fallen due at or before the dateof poinding or, as the case may be, other diligence or assignation.”
- (3) The following subsection shall be inserted after that subsection—
- “(1A) The sums referred to in subsection (1) above are—
- (a) sums due from the person in default on account of deductions of income taxfrom emoluments paid during the period of twelve months next before the dateof poinding, being deductions which the person in default was liable to makeunder section 203 of the principal Act (pay as you earn) less the amount ofthe repayments of income tax which he was liable to make during that period;and
  - (b) sums due from the person in default in respect of deductions required tobe made by him for that period under section 559 of the principal Act(sub-contractors in the construction industry).”
- (4) In subsection (2)—
- (a) for the words from the beginning to “the tax claimed shall” thereshall be substituted the words “If the sums referred to in subsection (1)above are not paid within ten days of the date of the demand referred to inthat subsection, the sums shall”, and
  - (b) for the words “proceeding at his instance” there shall be substitutedthe word “proceedings”.

**Changes to legislation:**

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