

Status: Point in time view as at 29/04/2013.

Changes to legislation: Local Government Finance Act 1992, SCHEDULE 8 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 97(5).

ENFORCEMENT: SCOTLAND

- 1 (1) This Schedule applies to any sum which has become payable to a [^{F1}local] authority under any provision included in regulations under—
- (a) paragraph 2, 3, 6(2) or (3) of Schedule 2 to this Act; or
 - (b) paragraph 6 of Schedule 3 to 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.

Textual Amendments

- F1** Word in Sch. 8 para. 1 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(18)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**

- 2 (1) Subject to sub-paragraphs (4) and (5) below, any sum to which this Schedule applies may be recovered by the [^{F2}local] 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 accompanied by a certificate from them containing such particulars as may be prescribed, shall grant a summary warrant in a form provided for by Act of Sederunt authorising the recovery, by 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—
- [^{F3}(a) an attachment;]
 - [^{F4}(aa) a money attachment;]
 - (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

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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.

Textual Amendments

- F2** Word in Sch. 8 para. 2 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(18)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**
- F3** Sch. 8 para. 2(3)(a) substituted (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, **Sch. 3 Pt. 1 para. 22(2)**
- F4** Sch. 8 para. 2(3)(aa) inserted (23.11.2009) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), s. 227(3), **sch. 5 para. 20(2)** (with s. 223); S.S.I. 2009/369, art. 3(2)(3), sch. (with art. 4) (which transitional provisions in art. 4 are revoked (31.1.2011) by S.S.I. 2011/31, art. 5(c))

- 3 (1) In any proceedings for the recovery of any sum to which this Schedule applies, whether by summary warrant or otherwise, no person shall be entitled to found upon failure by the [^{F5}local] authority or any other authority or body to comply with any provision included in regulations made under the provisions specified in paragraph 1 above relating to the date by which something shall be done.
- (2) No misnomer or inaccurate description of any person or place or mistake or informality in any notice or other document or communication relating to the levy or collection of any council tax or council water charge or in any proceedings for the payment thereof shall prejudice the recovery thereof.

Textual Amendments

- F5** Word in Sch. 8 para. 3 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(18)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**

- 4 (1) Subject to sub-paragraph (2) below and without prejudice to [^{F6}section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)(expenses of attachment)] [^{F7}and section 196(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (expenses of money attachment)], 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 [^{F8}local] authority for, the sums paid to him by the debtor in satisfaction of an amount owing to the authority by way of council tax or council water charge.

Textual Amendments

- F6** Words in Sch. 8 para. 4(1) substituted (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), s. 61, **Sch. 3 para. 22(3)**
- F7** Words in Sch. 8 para. 4(1) inserted (23.11.2009) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), s. 227(3), **sch. 5 para. 20(3)** (with s. 223); S.S.I. 2009/369, art. 3(2)(3), sch. (with art. 4) (which transitional provisions in art. 4 are revoked (31.1.2011) by S.S.I. 2011/31, art. 5(c))

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F8 Word in Sch. 8 para. 4 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(18)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**

- 5 (1) Regulations under this Schedule may provide that where a summary warrant or a decree in an action for payment has been granted against a person (“the debtor”) he shall, during such time as the amount in respect of which the warrant or decree was granted remains wholly or partly unpaid, be under a duty to supply relevant information to the authority concerned.
- (2) Relevant information is such information as fulfils the following conditions—
- (a) it is in the debtor’s possession or control;
 - (b) the authority request him to supply it; and
 - (c) it falls within a prescribed description of information.
- (3) The regulations may include provision that the information is to be supplied in a prescribed form and within a prescribed period of the request being made.
- 6 (1) Regulations made under this paragraph may provide that where a [^{F9}local] authority has obtained a summary warrant or a decree against a person (the debtor) in respect of arrears of sums payable under paragraph 1(1) above and the debtor is entitled to [^{F10}universal credit] income support^[F11], a jobseeker’s allowance^[F12], state pension credit or an employment and support allowance^[F13] . . .
- (a) the [^{F9}local] authority may, without prejudice to their right to pursue any other means of recovering such arrears, apply to the Secretary of State asking him to deduct sums from any amounts payable to the debtor by way of [^{F14}that benefit] in order to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the summary warrant or decree was granted; and
 - (b) the Secretary of State may deduct such sums and pay them to the authority towards satisfaction of any such outstanding sum.
- (2) Regulations made under this paragraph may include—
- (a) provision allowing or requiring adjudication as regards an application and provision as to appeals and reviews;
 - (b) a scheme containing provision as to the circumstances and manner in which and times at which sums are to be deducted and paid, provision about the calculation of such sums (which may include provision to secure that amounts payable to the debtor by way of [^{F15}universal credit] income support^[F16], a jobseeker’s allowance^[F17], state pension credit or an employment and support allowance^[F17] do not fall below prescribed figures), and provision as to the circumstances in which the Secretary of State is to cease making deductions;
 - (c) provision requiring the Secretary of State to notify the debtor, in a prescribed manner and at any prescribed time, of the total amount of sums deducted up to the time of the notification;
 - (d) provision that, where the whole amount to which the application relates has been paid, the authority shall give notice of that fact to the Secretary of State.

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Textual Amendments

- F9** Words in Sch. 8 para. 6 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 176(18)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(b)(c)**
- F10** Words in Sch. 8 para. 6(1) inserted (25.2.2013 for specified purposes, 29.4.2013 in so far as not already in force) by **Welfare Reform Act 2012 (c. 5)**, s. 150(3), **Sch. 2 para. 34(a)**; S.I. 2013/358, art. 2(1), **Sch. 1 para. 21**; S.I. 2013/983, art. 3(1)(b)(i)
- F11** Words in Sch. 8 para. 6(1) substituted (2.7.2002 for specified purposes, otherwise 6.10.2003) by **State Pension Credit Act 2002 (c. 16)**, ss. 14, 22(3), **Sch. 2 Pt. 3 para. 35(2)**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, **art. 2**
- F12** Words in Sch. 8 para. 6(1) substituted (27.10.2008) by **Welfare Reform Act 2007 (c. 5)**, s. 70(2), **Sch. 3 para. 11(3)**; S.I. 2008/787, art. 2(4)(f)
- F13** Words in Sch. 8 para. 6(1) omitted (22.4.1996) and repealed (7.10.1996) by 1995 c. 18, s. 41(4)(5), **Sch. 2 para. 76(2)(b)**, **Sch 3**; S.I. 1996/1126, **art. 2**, and S.I.1996/2208, **art. 2(b)**
- F14** Words in Sch. 8. para. 6(1) substituted (22.4.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 76(2)(c)**; S.I. 1996/1126, **art. 2**
- F15** Words in Sch. 8 para. 6(2)(b) inserted (25.2.2013 for specified purposes, 29.4.2013 in so far as not already in force) by **Welfare Reform Act 2012 (c. 5)**, s. 150(3), **Sch. 2 para. 34(b)**; S.I. 2013/358, art. 2(1), **Sch. 1 para. 21**; S.I. 2013/983, art. 3(1)(b)(i)
- F16** Words in Sch. 8 para. 6(2)(b) substituted (2.7.2002 for specified purposes, otherwise 6.10.2003) by **State Pension Credit Act 2002 (c. 16)**, ss. 14, 22(3), **Sch. 2 Pt. 3 para. 35(3)**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, **art. 2**
- F17** Words in Sch. 8 para. 6(2)(b) substituted (27.10.2008) by **Welfare Reform Act 2007 (c. 5)**, s. 70(2), **Sch. 3 para. 11(3)**; S.I. 2008/787, art. 2(4)(f)

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