



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XI

LEVY AND COLLECTION OF RATES BY RATING AUTHORITIES AND REQUISITIONS FOR PAYMENT BY OTHER LOCAL AUTHORITIES.

Recovery and Priority of Rates.

247 Recovery of rates.

- (1) Without prejudice to any other remedies for the recovery of rates it shall be competent to a rating authority, whether or not a warrant has been obtained under the immediately succeeding subsection, to recover any rates in arrear according to the ordinary procedure for recovery of debts before any competent court:

Provided that where any such warrant has been obtained, proceedings under this subsection shall be competent only if the warrant has not been put in force as respects the person against whom proceedings under this subsection are being taken, and decree shall not be given in any proceedings under this subsection unless the summary warrant is abandoned as respects that person.

- (2) Upon a petition by the collector of rates of a rating authority containing a certificate by the collector that he has given to each person who has not paid the rates due by him a notice requiring him to make payment of the amount due by him within fourteen days thereafter, that the said period has expired and that the said amount or a part thereof is still due and unpaid, the sheriff shall grant a summary warrant for recovery of the rates so far as due and unpaid, with the addition in each case of ten per centum of the sum due and unpaid, by poinding and shall authorise—
- (a) officers of court to enter into the house, place of business or other premises in the occupancy of any such person in arrear and to poind, seize, remove or secure any goods and effects therein belonging to or in the lawful possession of such person or so much thereof as shall satisfy the arrears of rates due by him with the said addition of ten per centum; and

- (b) officers of court or a licensed auctioneer after the lapse of four days, in the event of the non-payment of the said arrears and addition and the expenses incurred, to sell and dispose of the said goods and effects by public auction on three days notice and pay over to the collector the price after defraying the expenses of and incidental to the sale and the expenses, if any, of preserving the goods and effects, including the maintenance of cattle or other animals until redemption or sale:

and the collector shall apply the sum so paid over in payment of the said arrears and the said addition of ten per centum and account for the balance, if any, to such person:

Provided that no such warrant shall be granted in the case of a person against whom the rating authority have previously obtained a decree for the rates unpaid in any other competent proceedings.

- (3) Every such warrant shall also decern and ordain instant execution by arrestment.
- (4) The collector shall for a period of three months after the date of every such sale preserve evidence of the amount of the proceeds and the disposal thereof.
- (5) Where goods or effects sufficient for the payment of the rate cannot be found to be pointed, it shall be lawful for the sheriff, subject to the provisions of section five of the Civil Imprisonment (Scotland) Act, 1882, by warrant to commit the defaulter to prison, there to be kept without bail until payment is made or security for payment is given.
- (6) In any proceedings for the recovery of rates no person shall be entitled to found upon failure of the rating authority or any other authority to comply with any provision of this Act relating to the date by which something shall be done.

248 Priority of claim for rates over other claims.

- (1) No moveable goods and effects belonging to any person at the time any rates levied by a rating authority became in arrear or were payable by him shall be liable to be taken by virtue of pointing, sequestration or diligence or by any assignment, unless the person proceeding to take the goods and effects pays to the rating authority the rates in arrear or payable or so much thereof as represent the rates for one whole year.
- (2) If the rates in arrear or the rates for one whole year, as the case may be, are not so paid, such rates shall, notwithstanding that the goods and effects have been so taken as aforesaid, be recoverable as provided in the immediately preceding section.

249 Appeal against proceedings under warrant.

- (1) The owner of any goods and effects which have been pointed or sold under a warrant granted under this Part of this Act who feels aggrieved by the proceedings in connection with such pointing and sale may present an application to the sheriff who shall hear and determine summarily the dispute or claim of damages raised by the application.
- (2) Save as aforesaid, any warrant granted under this Part of this Act or any proceedings under such a warrant shall not be questioned in any legal proceedings whatsoever.

250 Recovery of rates from persons removing.

- (a) If at any time before the amount per pound of the rates for the financial year then current has been determined by the rating authority a person liable in payment of rates to the authority removes or is about to remove from any lands and heritages, the collector of the rating authority may by written demand require such person to pay such a sum as may be specified in the demand in respect of the rates for the year then current, not exceeding a sum equal to the amount of rates levied by the rating authority in respect of the lands and heritages for the immediately preceding year, and if such person fails to pay the sum in accordance with the demand; or
- (b) if at any time after the amount per pound of the rates for the financial year has been determined and the rates levied by the rating authority, whether before or after the date on which the rates are payable, a person liable in payment of rates to the authority removes or is about to remove from any lands and heritages and has not paid the rates in respect thereof on a demand therefor in writing by the collector of the rating authority;

the sheriff, on the application of the collector of the authority and without any previous notice to such person shall, if satisfied of the removal or intended removal or that there is reason to suspect such removal, grant warrant to officers of court to poind the goods and effects found on the said lands and heritages and sell the same and pay over to the collector of the authority the proceeds after deducting the reasonable expenses attending such poinding and sale, the collector applying the sum so paid over in payment—

- (i) in the case of a person to whom paragraph (a) hereof applies, of the sum specified in the demand; and
- (ii) in the case of a person to whom paragraph (b) hereof applies, of the rates specified in the demand;

together with the reasonable expenses of the proceedings, and accounting for the balance, if any, to the owner of the goods and effects:

Provided that nothing in this section shall be deemed to affect the right of the rating authority to recover from any other person who may be liable any rates in respect of the said lands and heritages after taking account of any sums recovered under this section.

251 Rates recoverable beyond area of rating authority.

If any person liable in payment of any rates removes to any place beyond the area of the rating authority, it shall nevertheless be lawful for the rating authority and their collector or other officers to put into execution any decree and warrant granted for the recovery of such rates in manner before mentioned in this Part of this Act within or beyond the area of the authority in the same manner as if such person had continued to reside within that area, such decree or warrant being first endorsed by the sheriff of the county within which such decree or warrant is to be put into execution.

252 Application of recovery provisions of Act to private improvement expenses.

The provisions of this Part of this Act relating to the recovery and priority of rates shall apply to private improvement expenses under the Burgh Police Acts or under the corresponding provisions of any local Act, whether such expenses are recoverable by a town council or as respects a classified road within a small burgh by a county

council, but subject to any necessary modifications and so far as not inconsistent with the provisions of the said Acts.

253 Misnomers, and &c. not to affect proceedings for recovery of rates.

- (1) No misnomer or inaccurate description of any person or place, or mistake or informality in any roll, demand note or other document in relation to the levying or collecting of rates or any charge or expenses under the Burgh Police Acts or under the corresponding provisions of any local Act or in any proceedings for the recovery of such rates, charges or expenses shall prejudice the recovery thereof; nor shall any proceedings for or in connection with the recovery of any such rates, charges or expenses or in the execution of a warrant relating thereto be questioned in any legal proceedings by reason of any such misnomer, inaccurate description, mistake or informality.
- (2) No proceedings for the recovery of any such rates, charges or expenses shall lapse or abate by the death, resignation or removal from office of the collector instituting the same, but it shall be lawful for the collector of the rating or other local authority for the time to prosecute and follow forth proceedings commenced and carried on in the name of any previous collector in all respects as if such proceedings had been taken by himself.