

Finance Act, 2008

Section 128 - Summary warrant: Scotland

1) This section applies if a person does not pay a sum that is payable by that person to the Commissioners under or by virtue of any enactment or under a contract settlement. (2) An officer of Revenue and Customs may apply to the sheriff for a summary warrant. (3) An application under subsection (2) must be accompanied by a certificate which- (a) complies with subsection (4), and (b) is signed by the officer. (4) A certificate complies with this subsection if- (a) it states that- (i) none of the persons specified in the application has paid the sum payable by that person, (ii) the officer has demanded payment from each such person of the sum payable by that person, and (iii) the period of 14 days beginning with the day on which the demand is made has expired without payment being made, and (b) it specifies the sum payable by each person specified in the application. (5) Subsection (4)(a)(iii) does not apply to an application under subsection (2) insofar as it relates to- (a) sums payable in respect of value added tax, (b) sums payable in respect of deductions required to be made under section 61 of FA 2004 (sub-contractors in the construction industry), and (c) sums payable by a person in that person's capacity as an employer. (6) The sheriff must, on an application by an officer of Revenue and Customs under subsection (2), grant a summary warrant in, or as nearly as may be in, the form prescribed by Act of Sederunt. (7) A summary warrant granted under subsection (6) authorises the recovery of the sum payable by- (a) attachment, (b) money attachment, (c) earnings arrestment, (d) arrestment and action of furthcoming or sale. (8) Subject to subsection (9) and without prejudice to section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)- (a) the sheriff officer's fees, and (b) any outlays necessarily incurred by that officer, in connection with the execution of a summary warrant are to be chargeable against the person in relation to whom the warrant was granted. (9) No fees are to be chargeable by the sheriff officer against the person in relation to whom the summary warrant was granted for collecting, and accounting to the Commissioners for, sums paid to that officer by that person in respect of the sum payable. (10) This section extends to Scotland only.