

## SCHEDULE 3

Rule 6.5

### SERVICE OF DOCUMENTS FURTH OF SCOTLAND

#### Interpretation of this Schedule

1. In this Schedule—

“consular service” is to be construed in accordance with paragraph 8;

“EU member state” means a state which is a member of the European Union, within the meaning of Part II of schedule 1 of the European Communities Act 1972<sup>(1)</sup>;

“Hague Convention country” means a country in respect of which the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters is in force, other than an EU member state<sup>(2)</sup>;

“personal service” is to be construed in accordance with paragraph 9;

“postal service” is to be construed in accordance with paragraph 10;

“Service Regulation” means Regulation (E.C.) No. 1393/2007 of the European Parliament and of the Council of 13th November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (E.C.) No. 1348/2000, as amended from time to time.

#### Service furth of Scotland

2.—(1) Service of a document furth of Scotland is to be effected in accordance with this paragraph.

(2) If the person’s known residence or place of business is in England and Wales, Northern Ireland, the Isle of Man or the Channel Islands, see paragraph 3.

(3) If the person’s known residence or place of business is in an EU member state (including Denmark), see paragraph 4.

(4) If the person’s known residence or place of business is in a Hague Convention country (other than an EU member state), see paragraph 5.

(5) If the person’s known residence or place of business is in a country with which the United Kingdom has a convention about how to serve court documents (such as Algeria, Libya and the United Arab Emirates), see paragraph 6.

(6) If none of the above applies, see paragraph 7.

#### Service in England and Wales etc.

3.—(1) A document may be served in England and Wales, Northern Ireland, the Isle of Man or the Channel Islands by—

(a) postal service; or

(b) personal service.

(2) Personal service may be effected by a person who is authorised to do so under the domestic law of the place where the document is to be served.

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(1) 1972 c. 68.

(2) See the status table at <https://www.hoch.net/en/instruments/conventions/status-table/?cid=17>.

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### **Service in an EU member state**

4.—(1) A document may be served in an EU member state (including Denmark) under the Service Regulation by—

- (a) postal service;
- (b) service by transmitting agency;
- (c) direct service, where the law of the member state permits it;
- (d) consular service.

(2) Service by transmitting agency may be effected by sending the document to a messenger-at-arms and instructing them to arrange for it to be served.

(3) Direct service may be effected by sending the document to a person who is entitled to serve court documents in that member state and asking them to arrange for it to be served.

(4) Where service is to be effected by transmitting agency, the party must give the messenger-at-arms a translation of the document into a language which the recipient understands or an official language of the member state where the document is to be served.

### **Service in a Hague Convention country**

5.—(1) A document may be served in a Hague Convention country (other than an EU member state) by—

- (a) postal service, where the law of the country permits it;
- (b) service via central authority;
- (c) consular service;
- (d) service by competent person, where the law of the country permits it.

(2) Service via central authority may be effected by sending the document to the Scottish Ministers and asking them to arrange for it to be served.

(3) Service by competent person may be effected by sending the document to a person who is entitled to serve court documents in that country and asking them to arrange for it to be served.

(4) Any document must be accompanied by a translation into an official language of the country where it is to be served, unless English is an official language of that country.

### **Service in a country with which the United Kingdom has a convention about how to serve court documents**

6. A document may be served in a country with which the United Kingdom has a convention about how to serve court documents by any method that is permitted by the convention.

### **Service in any other country**

7.—(1) Where none of paragraphs 3 to 6 apply, a document may be served by—

- (a) postal service;
- (b) personal service.

(2) Where service is effected by personal service, the party executing service must lodge a certificate stating that the method of service employed is in accordance with the law of the country where service was executed.

(3) That certificate is to be given by a person who—

- (a) practises or has practised law in that country; or

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- (b) is an accredited representative of that country's government, conversant with the law of that country.

### **Consular service**

- 8.—(1) Consular service is service by a British consular authority.
- (2) Consular service may be effected only if—
  - (a) the law of the member state where the document is to be served permits it; or
  - (b) the document is being served on a British national.
- (3) Consular service may be effected by sending the document to the Secretary of State for Foreign and Commonwealth Affairs and asking the Secretary of State to arrange for it to be served by a British consular authority.

### **Personal service**

- 9.—(1) Personal service is service using the rules for personal service under the domestic law of the place where the document is to be served.
- (2) Personal service may be effected by a person who is authorised to do so under the domestic law of the place where the document is to be served.

### **Postal service**

- 10.—(1) Postal service is service by posting the document to the person's home or business address using a postal service which records delivery.
- (2) Postal service may be effected by a solicitor or a sheriff officer.
- (3) Where postal service is used, the envelope containing the document must have the following label printed or written on it—

**THIS ENVELOPE CONTAINS A** *(name of document)* **FROM** *(name of sheriff court)*,  
**SCOTLAND**

**IF DELIVERY CANNOT BE MADE, THE LETTER MUST BE RETURNED TO THE  
SHERIFF CLERK AT**

*(full address of sheriff court)*

- (4) That label must be translated into an official language of the country where the document is to be served, unless English is an official language of that country.

### **Certification of translations**

- 11.—(1) This paragraph applies where this schedule requires a document to be translated into a language other than English.
- (2) The party executing service must lodge a certificate stating that the translation is correct.
- (3) That certificate—
  - (a) is to be given by the person who made the translation;
  - (b) must include the full name, address and qualifications of the translator.