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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 107**

**Act of Sederunt (Sheriff Court Rules  
Amendment) (Diligence) 2009**

**Amendment of the Act of Sederunt (Proceedings in the Sheriff Court under the Debtors (Scotland) Act 1987) 1988**

**2.**—(1) The Act of Sederunt (Proceedings in the Sheriff Court under the Debtors (Scotland) Act 1987) 1988(1) is amended in accordance with subparagraphs (2) and (3).

(2) After Part V (warrants for diligence) insert—

**“PART VA**

**ARRESTMENT IN EXECUTION**

**Certificate of execution**

**69A.** A certificate of execution of an arrestment in execution shall be in Form 63B.

**Service of final decree**

**69B.** The copy final decree served under section 73C(2)(2) of the Act (arrestment on the dependence followed by decree) shall be in Form 63C.

**Failure to disclose information**

**69C.**—(1) An application under section 73H(1)(3) of the Act (failure to disclose information)—

- (a) shall be in Form 63D; and
- (b) must be intimated by the creditor to the debtor and to the arrestee.

(2) On the lodging of an application under paragraph (1) the sheriff may—

- (a) fix a date for a hearing; and
- (b) order the sheriff clerk to intimate the date of the hearing in Form 63E to such persons as the sheriff considers appropriate.

**Notice of objection**

**69D.**—(1) A notice of objection under section 73M(4) of the Act (notice of objection) shall be in Form 63F.

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(1) S.I. 1988/2013, amended by S.I. 1991/1920, 1993/920, 1994/3086, 1995/1876, 1996/2709 and 1999/1820 and S.S.I. 2002/560, 2007/465 and 2008/121.  
(2) Section 73C was inserted by the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), section 206.  
(3) Section 73H was inserted by the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#), section 206.  
(4) Section 73M was inserted by the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#), section 206.

- (2) On the lodging of a notice of objection under paragraph (1) the sheriff must—
  - (a) fix a date for the hearing; and
  - (b) order the sheriff clerk to intimate the date of the hearing in Form 63E to such persons as the sheriff considers appropriate.

#### **Application for release of property where arrestment unduly harsh**

**69E.**—(1) An application under section 73Q(2)(5) of the Act (application for release of property where arrestment unduly harsh) shall be in Form 63G.

- (2) On the lodging of an application under paragraph (1) the sheriff must—
  - (a) fix a date for the hearing of the Act; and
  - (b) order the sheriff clerk to intimate the date of the hearing in Form 63E to such persons as the sheriff considers appropriate.

#### **Power of sheriff to make orders**

**69F.** The sheriff may make such other order for the progress of an application under this Part as he considers appropriate in the circumstances of the case.

#### **Service of documents**

**69G.** Rules 5.3 to 5.6 of the Ordinary Cause Rules in the First Schedule to the Sheriff Courts (Scotland) Act 1907(6) are to apply to the service or intimation of any document under this Part as they apply to the service or intimation of any document under those Rules.”.

- (3) In the Schedule, after Form 63A insert the forms set out in Schedule 1 to this Act of Sederunt.

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(5) Section 73Q was inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007, section 206.

(6) 1907 c. 51. Rule 5.4 was amended by S.S.I. 2003/26; rule 5.5 was amended by S.I. 1996/2445 and S.S.I. 2003/26, 2004/197 and 2007/440; rule 5.6 was amended by S.S.I. 2008/121.