
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 158

DEBT

DILIGENCE

The Removing from Heritable Property (Form of Charge) (Scotland) Regulations 2011

Made - - - - 23rd February 2011
Laid before the Scottish Parliament - - - - 25th February 2011
Coming into force - - 4th April 2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 216(6) of the Bankruptcy and Diligence etc. (Scotland) Act 2007⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Removing from Heritable Property (Form of Charge) (Scotland) Regulations 2011 and come into force on 4th April 2011.

Form of Charge

2. The form of charge prescribed for the purposes of section 216(1) (service of charge before removing) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 is set out in the Schedule.

St Andrew's House,
Edinburgh
23rd February 2011

FERGUS EWING
Authorised to sign by the Scottish Ministers

(1) 2007 asp 3 ("the Act"). Section 216 is amended by section 152(3) of the Housing (Scotland) Act 2010 (asp 17).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 2

**FORM OF CHARGE FOR REMOVING
CHARGE FOR REMOVING**

(insert name, address and, as appropriate, designation of pursuer)

PURSUER

Against

(insert name, address and, as appropriate, designation of defender)

DEFENDER

**IT IS IMPORTANT YOU READ THIS NOTICE – YOU ARE AT RISK OF
BEING REMOVED FROM YOUR HOME OR OTHER PREMISES**

Date: *(date of service)*

To: *(name and address of DEFENDER)*

A decree for removing from heritable property was granted in an action against you in the [Court of Session / sheriff court] at *(place)* on *(date)*.

The decree was extracted on *(date)*.

In Her Majesty’s name and authority [and in the name and authority of the sheriff] I, *(name)*, [Messenger-at-Arms or Sheriff Officer], by virtue of a decree of removing from heritable property, as defined in section 214 of the Bankruptcy and Diligence etc. (Scotland) Act 2007, lawfully charge you to remove yourself, sub-tenants, dependants and others deriving a right to occupy the premises from you (unless, where valid notice to quit has not previously been given under section 33(1) of the Housing (Scotland) Act 1988 to such a person deriving right to occupy the premises from you) together with all of your and their effects, possessions and belongings, from the premises situated at *(address where removal is to take place)* and to leave the premises vacant, within 14 days* *(*or such other period as is specified by the court)* after the date of service of this charge for removing. [The sheriff has directed that any of your effects left in the property be preserved by sheriff officers. You will be liable for any costs incurred in the preservation of these effects *(delete as appropriate)*].

This charge for removing is served upon you on *(insert date)*, before and in the presence of *(name, occupation and address of witness)*.

.....
(Witness)

(Signed).....
[Messenger-at-Arms][Sheriff Officer]
(Address)

Instructed by:– *(name and address of instructing agent)*

<p><u>IMPORTANT – DO NOT IGNORE THIS NOTICE</u></p> <p>If you do not remove yourself from the premises, (together with others deriving a right from you to occupy the premises), within the time specified in this charge, you may be removed by a Messenger-at-Arms or Sheriff Officer.</p> <p>YOU ARE STRONGLY RECOMMENDED TO SEEK ADVICE (INCLUDING LEGAL ADVICE) AS SOON AS POSSIBLE</p>
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the form of charge required to be served by an officer of the court before removing a person, and any effects that person may have, from heritable property by virtue of a court decree or warrant.

This charge and the procedures for removal are prescribed under Part 15 of the Bankruptcy and Diligence etc. (Scotland) Act 2007. Section 216 of that Act also provides for the removal of an occupant deriving a right or having permission from the defender, subject to any notice to quit for an assured tenant having been provided.