

## SCHEDULE 2

Rule 1.2(1)

### INTIMATION

#### PART 1

##### Intimation within Scotland

###### **Interpretation**

**1.** In this schedule—

“first class post” means a postal service which seeks to deliver documents or other things by post no later than the next working day in all or the majority of cases;

“intimating participant” means any participant who has to give intimation in accordance with paragraph 2;

“receiving participant” means any participant to whom intimation is to be given; and

“recorded delivery” means a postal service which provides for the delivery of the document or other thing by post to be recorded.

###### **Intimation**

**2.—**(1) Unless the sheriff orders otherwise, intimation is to be given to every other participant where any provision in these Rules requires a participant to—

- (a) intimate something; or
- (b) lodge something.

(2) The sheriff clerk must intimate an order of the sheriff to every participant when the sheriff makes an order other than at a hearing where all participants are present or represented.

###### **Methods of intimation**

**3.—**(1) Intimation may be given to a receiving participant by any of the methods specified in paragraphs 4 and 5.

(2) Where the receiving participant is represented by a solicitor, intimation may also be given by any of the methods specified in paragraph 6.

(3) Where the receiving participant is furth of Scotland, intimation must be given in accordance with Part 2 of this schedule.

###### **Methods of intimation: intimation by recorded delivery**

**4.** An intimating participant may give intimation by recorded delivery to the receiving participant.

###### **Methods of intimation: intimation by sheriff officer**

**5.—**(1) A sheriff officer may give intimation on behalf of an intimating participant by—

- (a) delivering the intimation personally to the receiving participant; or
- (b) leaving the intimation in the hands of—
  - (i) a resident at the receiving participant’s dwelling place; or
  - (ii) an employee, agent or representative at the receiving participant’s place of business.

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- (2) Where a sheriff officer has been unsuccessful in intimation in accordance with subparagraph (1), the sheriff officer may give intimation by—
- (a) depositing it in the receiving participant’s dwelling place or place of business; or
  - (b) leaving it at the receiving participant’s dwelling place or place of business in such a way that it is likely to come to the attention of that participant.

**Additional methods of intimation where receiving participant represented by solicitor**

6.—(1) An intimating participant may give intimation to the solicitor for the receiving participant by—

- (a) delivering it personally to the solicitor;
- (b) delivering it to a document exchange of which the solicitor is a member;
- (c) first class post;
- (d) fax; or
- (e) email.

(2) Where intimation is given by the method in subparagraph (1)(a), (d) or (e) not later than 1700 hours on any day, the date of intimation is that day.

(3) Where intimation is given by the method in—

- (a) subparagraph (1)(b) or (c); or
- (b) subparagraph (1)(a), (d) or (e) after 1700 hours on any day,

the date of intimation is the next day.

**Form of certificate of intimation**

7. A certificate of intimation is to be in S2.7.

## PART 2

### Intimation furth of Scotland

**Interpretation of this Part**

8. In this Part—

“consular service” is to be construed in accordance with paragraph 15;

“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 15th 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 16;

“postal service” is to be construed in accordance with paragraph 17; and

“Service Regulation” means Regulation (EC) 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

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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>.

extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No. 1348/2000<sup>(3)</sup>, as amended from time to time.

### **Intimation furth of Scotland**

**9.**—(1) Intimation 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 10.

(3) If the person's known residence or place of business is in an EU member State (including Denmark), see paragraph 11.

(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 12.

(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 13.

(6) If none of the above applies, see paragraph 14.

### **Service in England and Wales etc.**

**10.**—(1) A document may be intimated 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.

### **Service in an EU member State**

**11.**—(1) A document may be intimated 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; or
- (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 participant 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**

**12.**—(1) A document may be intimated in a Hague Convention country (other than an EU member State) by—

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(3) OJ L 324, 10.12.2007 p. 79.

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- (a) postal service, where the law of the country permits it;
- (b) service via central authority;
- (c) consular service; or
- (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**

**13.** A document may be intimated 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**

**14.—**(1) Where none of paragraphs 10 to 13 apply, a document may be intimated by—

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

(2) Where intimation is effected by personal service, the participant 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
- (b) is an accredited representative of that country's government, conversant with the law of that country.

### **Consular service**

**15.—**(1) Consular service is service by a British consular authority.

(2) Consular service may be effected only if—

- (a) the law of the 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**

**16.—**(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**

17.—(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—

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**“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)”.**

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(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**

18.—(1) This paragraph applies where this schedule requires a document to be translated into a language other than English.

(2) The participant 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; and

(b) must include the full name, address and qualifications of the translator.