
STATUTORY INSTRUMENTS

1991 No. 1397

Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) 1991

PART VI

OFFICIAL FUNCTIONS AND EXTRA-OFFICIAL ACTIVITIES

Official functions

14.—(1) Without prejudice to rule 16 in the First Schedule to the Sheriff Courts (Scotland) Act 1907⁽¹⁾, rule 11 of the Act of Sederunt (Summary Cause Rules, Sheriff Court) 1976⁽²⁾, section 91(2) of the Act of 1987, and any functions under any other enactment, an officer of court may exercise the following official functions—

- (a) subject to paragraph (2) below, collect any debt constituted by decree or recoverable by summary warrant;
- (b) execute diligence; or
- (c) execute a citation or serve any document required under any legal process,

in any place in respect of which he holds a commission as an officer of court.

(2) A debt constituted by decree or recoverable by summary warrant may be collected—

- (a) in the case of a decree or summary warrant of the sheriff court, by a sheriff officer; or
- (b) in the case of a decree or summary warrant of the Court of Session, by a messenger-at-arms.

(3) Without prejudice to rule 16 in the First Schedule to the Sheriff Courts (Scotland) Act 1907, rule 11 of the Act of Sederunt (Summary Cause Rules, Sheriff Court) 1976, section 91(2) of the Act of 1987, and any functions under any other enactment, a person who holds a commission as a sheriff officer may practise as a sheriff officer only in the sheriffdom or district of a sheriffdom in respect of which he has been granted a commission under rule 8(5) above.

(4) An officer of court may refuse to execute a citation, serve any document required under any legal process or execute diligence where—

- (a) the prescribed, or reasonable, expenses have not been tendered to him or secured by or on behalf of the person instructing him; or
- (b) it is not reasonably practicable for him to carry out his instructions and this has been intimated forthwith on receipt of the instructions to the person instructing him.

(5) An officer of court may not—

- (a) form a company within the meaning of section 735(1) of the Companies Act 1985⁽³⁾ for the purpose of exercising any of his official functions; or

⁽¹⁾ 1907 c. 51 (7 Edw. 7); the First Schedule was substituted by S.I. 1983/747.

⁽²⁾ S.I. 1976/476; rule 11 was substituted by S.I. 1980/455.

⁽³⁾ 1985 c. 6.

- (b) exercise any of his official functions as an employee of a company within the meaning of section 735(1) of the Companies Act 1985.

Extra-official activities

15.—(1) Subject to paragraph (2) below, the extra-official activities of an officer of court may include—

- (a) collection for remuneration of any debt not constituted by decree where authorised to do so under rule 16 below; or
- (b) in the absence of any statutory provision to the contrary, service on a person for remuneration of any notice which is required to be served under any enactment.

(2) An officer of court who performs an extra-official activity under paragraph (1) above shall not state or imply that he is acting in his capacity as an officer of court.

(3) An officer of court may not be—

- (a) an auctioneer with his own auction room;
- (b) an elected or appointed member of a public or local authority;
- (c) a house factor;
- (d) a member of the Faculty of Advocates;
- (e) a member of the Law Society of Scotland;
- (f) a member of the United Kingdom, or European, Parliament;
- (g) a money lender; or
- (h) a police officer.

Applications for authorisation to collect debts not constituted by decree

16.—(1) A sheriff principal may, on the application of a sheriff officer who has his principal place of business in the sheriffdom and holds a commission from the sheriff principal, authorise that sheriff officer for remuneration to collect or be engaged in the collection of debts not constituted by decree on such conditions as the sheriff principal may consider appropriate.

(2) An application by a sheriff officer under paragraph (1) above shall be made in writing and shall disclose any material interest held by the sheriff officer, a member of his family or a business associate in any organisation on behalf of which he seeks authority to collect debts.

(3) Where a sheriff officer, a member of his family or a business associate acquires an interest mentioned in paragraph (2) above, after authorisation under paragraph (1), above, and intends to collect debts not constituted by decree on behalf of that organisation, the sheriff officer shall make a further application to the sheriff principal under paragraph (1) above.