Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 15

ACTIONS FOR REMOVING FROM HERITABLE PROPERTY

214 Expressions used in this Part

(1) In this Part—

"a decree for removing from heritable property" means—

(a) a decree **[**[F1], order**]** or warrant such as is mentioned in subsection (2) below; or

(b) a document such as is mentioned in subsection (3) below; [F2]...

"an action for removing from heritable property" means, in the case of a decree **[**[F3], order**]** or warrant, the proceedings in which such a decree **[**[F3], order**]** or warrant is obtained.

[[F4]"defender", in relation to a decree for removing from heritable property of the type mentioned in subsection (2)(l), means any person against whom the decree is enforceable.**]**

[[F5]"the First-tier Tribunal" means the First-tier Tribunal for Scotland,**]**

(2) The decrees **[**[F6], orders**]** and warrants referred to in subsection (1) above are—

(a) a decree of removing and warrant of ejection obtained in an action of removing;

(b) a decree and warrant of ejection obtained in an action of ejection;

(c) a summary warrant of ejection obtained by virtue of section 36 of the Sheriff Courts (Scotland) Act 1907 (c. 51) (in this section, the "1907 Act");

(d) a warrant for summary ejection obtained by virtue of section 37 of the 1907 Act;

(e) a decree obtained by virtue of a summary application for removing under section 38 of the 1907 Act;

(f) a decree for recovery of possession of heritable property obtained by virtue of a summary cause under section 35(1)(c) of the Sheriff Courts (Scotland) Act 1971 (c. 58);

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(g) an order for possession (within the meaning of section 115(1) of the Rent (Scotland) Act 1984 (c. 58)) obtained by virtue of the Housing (Scotland) Act 1987 (c. 26) or the Housing (Scotland) Act 1988 (c. 43);

(h) a warrant for ejection of a crofter granted under section 22(3) of the Crofters (Scotland) Act 1993 (c. 44);

(i) an order of removal or ejection made under section 84(1)(e) of the Agricultural Holdings (Scotland) Act 2003 (asp 11); [F7]...

(j) a warrant of ejection obtained by virtue of a summary application under section 38(1) of, or paragraph 3(1) of schedule 5 to, the Housing (Scotland) Act 2006 (asp 1), **[**[F8]; [F9]...

(k) an eviction order issued under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016,**][**[F10]; and

(l) a decree of removing and warrant for ejection granted under section 266(8ZA) of the Proceeds of Crime Act 2002.**]**

being decrees **[**[F6], orders**]** or warrants which, or extracts of which, authorise the removing or ejection of persons from subjects or premises.

(3) The documents referred to in subsection (1) above are—

(a) a lease, or an extract of a lease, having, by virtue of section 34 of the 1907 Act, the same force and effect as an extract decree of removing; and

(b) a letter of removal having, by virtue of section 35 of the 1907 Act, the same force and effect as an extract decree of removing.

(4) The Scottish Ministers may by order modify subsections (2) and (3) above by—

(a) adding types of decree, warrant or document to;

(b) removing types of decree, warrant or document from; or

(c) varying the description of,

the types of decree, warrant or document referred to in those subsections.

Textual Amendments

F1 Word in s. 214(1) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **6(2)(a)(i)**

F2 Word in s. 214(1) omitted (27.4.2017 for specified purposes, 31.10.2017 for specified purposes, 31.1.2018 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 91(2)(a)**; S.I. 2017/991, reg. 2(y); S.I. 2018/78, reg. 5(1)(f)

F3 Word in s. 214(1) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **6(2)(a)(ii)**

F4 Words in s. 214(1) inserted (27.4.2017 for specified purposes, 31.10.2017 for specified purposes, 31.1.2018 in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 91(2)(b)**; S.I. 2017/991, reg. 2(y); S.I. 2018/78, reg. 5(1)(f)

F5 Words in s. 214(1) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **6(2)(a)(iii)**

F6 Word in s. 214(2) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **6(2)(b)**

F7 Word in s. 214(2)(i) repealed (1.12.2017) by Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), s. 79(2), **sch. 4 para. 10(2)(a)**; S.S.I. 2017/346, reg. 2, sch.

F8 S. 214(2)(k) and word inserted (1.12.2017) by Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), s. 79(2), **sch. 4 para. 10(2)(b)**; S.S.I. 2017/346, reg. 2, sch.

F9 Word in s. 214(2)(j) omitted (31.1.2018) by virtue of Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 91(3)(a)**; S.I. 2018/78, reg. 5(1)(f)

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F10 S. 214(2)(l) and word inserted (27.4.2017 for specified purposes, 31.10.2017 for specified purposes, 31.1.2018 in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 91(3)(b)**; S.I. 2017/991, reg. 2(y); S.I. 2018/78, reg. 5(1)(f)

Commencement Information

I1 S. 214 partly in force; s. 214 not in force at Royal Assent see s. 227; s. 214(4) in force for certain purposes at 1.4.2008 by S.S.I. 2008/115, **art. 3(4)**, Sch. 3 (with arts. 4-6, 10)

I2 S. 214(1)-(3) in force at 4.4.2011 by S.S.I. 2011/179, **art. 3(a)** (with art. 4)

I3 S. 214(4) in force at 4.4.2011 in so far as not already in force by S.S.I. 2011/179, **art. 3(a)** (with art. 4)

Changes to legislation:
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

– Act applied (with modifications) by S.I. 2018/1125 reg. 8 (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 176(2A) inserted by 2024 asp 9 s. 19(2)