
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 121

**Act of Sederunt (Sheriff Court Rules
Amendment) (Diligence) 2008**

Interim diligence

- 5.—(1) The Ordinary Cause Rules are amended in accordance with subparagraphs (2) to (7).
- (2) Rule 3.5 (warrants and precepts for arrestment on dependence)(1) is revoked.
- (3) In rule 5.6 (service where address of person is not known) at the beginning insert—
- “(A1) Subject to rule 6.A7 this rule applies to service where the address of a person is not known.”.
- (4) Chapter 6 is renamed “INTERIM DILIGENCE”.
- (5) At the beginning of that Chapter, insert—

“Interpretation

6.A1. In this Chapter—

 “the 1987 Act” means the Debtors (Scotland) Act 1987(2); and

 “the 2002 Act” means the Debt Arrangement and Attachment (Scotland) Act 2002(3).

Application for interim diligence

6.A2.—(1) The following shall be made by motion—

- (a) an application under section 15D(1) of the 1987 Act(4) for warrant for diligence by arrestment or inhibition on the dependence of an action or warrant for arrestment on the dependence of an admiralty action;
- (b) an application under section 9C of the 2002 Act(5) for warrant for interim attachment.

(2) Such an application must be accompanied by a statement in Form G4A.

(3) A certified copy of an interlocutor granting a motion under paragraph (1) shall be sufficient authority for the execution of the diligence concerned.

Effect of authority for inhibition on the dependence

6.A3.—(1) Where a person has been granted authority for inhibition on the dependence of an action, a certified copy of the interlocutor granting the motion may be registered with a certificate of execution in the Register of Inhibitions and Adjudications.

(1) Rule 3.5 was amended by [S.S.I. 2004/197](#).

(2) [1987 c. 18](#).

(3) [2002 asp 9](#).

(4) Section 15D was inserted by section 169 of the [Bankruptcy and Diligence \(Scotland\) Act 2007 \(asp 3\)](#).

(5) Section 9C was inserted by section 173 of the [Bankruptcy and Diligence \(Scotland\) Act 2007 \(asp 3\)](#).

(2) A notice of a certified copy of an interlocutor granting authority for inhibition under rule 6.A2 may be registered under section 155 of the Titles to Land Consolidation (Scotland) Act 1868⁽⁶⁾; and such registration shall have the same effect as registration of a notice under that section.

Recall etc of arrestment or inhibition

6.A4. An application by any person having an interest—

- (a) to loose, restrict, vary or recall an arrestment or an interim attachment; or
- (b) to recall, in whole or in part, or vary, an inhibition,

shall be made by motion.

Incidental applications in relation to interim diligence, etc

6.A5. An application under Part 1A of the 1987 Act⁽⁷⁾ or Part 1A of the 2002 Act⁽⁸⁾ other than mentioned above shall be made by motion.

Form of schedule of inhibition on the dependence

6.A6.—(1) An inhibition on the dependence shall be served by serving the schedule of inhibition on the defender in Form G4B.

- (2) A certificate of execution shall be lodged with the sheriff clerk in Form G4C.

Service of inhibition on the dependence where address of defender not known

6.A7.—(1) Where the address of a defender is not known to the pursuer, an inhibition on the dependence shall be deemed to have been served on the defender if the schedule of inhibition is left with or deposited at the office of the sheriff clerk of the sheriff court district where the defender's last known address is located.

(2) Where service of an inhibition on the dependence is executed under paragraph (1), a copy of the schedule of inhibition shall be sent by the sheriff officer by first class post to the defender's last known address.”.

- (6) Rule 6.2 (arrestment on dependence before service) is revoked.

(7) After Form G4 in Appendix 1 to Schedule 1, insert Forms G4A, G4B and G4C set out in Schedule 1 to this Act of Sederunt.

⁽⁶⁾ 1868 c. 101.

⁽⁷⁾ Part 1A was inserted by section 169 of the [Bankruptcy and Diligence \(Scotland\) Act 2007](#) (asp 3).

⁽⁸⁾ Part 1A was inserted by section 173 of the [Bankruptcy and Diligence \(Scotland\) Act 2007](#) (asp 3).