
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 289

**Act of Sederunt (Sheriff Court Rules)
(Miscellaneous Amendments) (No. 2) 2011**

Service of sequestration petitions

6.—(1) Subject to subparagraph (4), the Sheriff Court Bankruptcy Rules are amended in accordance with the following subparagraphs.

(2) After rule 5 (applications), insert—

“Service of sequestration petitions

5A.—(1) This rule applies to citation of a debtor in pursuance of section 12(2) of the Act of 1985⁽¹⁾.

(2) Citation shall be effected by service on the debtor of Form 5A accompanied by a copy of the petition and warrant of citation.

(3) Subject to the following paragraphs, service occurs if—

- (a) where the debtor is a living individual, a sheriff officer accompanied by a witness gives the documents personally to the debtor;
- (b) where the debtor is deceased, a sheriff officer accompanied by a witness gives the documents personally to an executor or a person entitled to be appointed as executor to the deceased debtor, save that where such executor or appointee is a body corporate, paragraph (c)(iv) applies.
- (c) where the debtor is an entity whose estate may be sequestrated by virtue of section 6(1) of the Act of 1985, a sheriff officer accompanied by a witness—
 - (i) in the case of a trust in respect of debts incurred by it, gives the documents personally to the individual trustees (if known);
 - (ii) subject to subparagraph (iii) in the case of a partnership or limited partnership within the meaning of the Limited Partnerships Act 1907, gives the documents personally to the individual partners (if known) and leaves them in the hands of an employee at an established place of business of the entity;
 - (iii) in the case of a dissolved partnership (including a dissolved partnership within the meaning of the Limited Partnerships Act 1907), gives the documents personally to the individual partners (if known);
 - (iv) in the case of a body corporate or an unincorporated body, gives the documents personally to a senior official (if known) and leaves them in the hands of an individual at an established place of business of the entity;

and section 3 of the Citation Amendment (Scotland) Act 1882⁽²⁾ will not apply.

(4) Service on a debtor or other person to whom citation is required under this rule, in either case furth of Scotland, is to be effected in accordance with rule 5.5 (service on persons

(1) The Bankruptcy (Scotland) Act 1985 c. 66.

(2) 1882 c. 77.

furth of Scotland)(3) of the Ordinary Cause Rules in the First Schedule to the Sheriff Courts (Scotland) Act 1907.

(5) A creditor may apply to the sheriff for authority to serve by such other means as the sheriff thinks fit.

(6) An application under paragraph (5) must be made—

- (a) by crave in the petition; or
- (b) by motion.

(7) A certificate of citation in Form 5B must be lodged with the sheriff clerk and state—

- (a) the method of citation; and
- (b) where citation is by a sheriff officer—
 - (i) Form 5B must be signed by the sheriff officer and the witness; and
 - (ii) where the method of citation was other than personal or postal citation, the full name and designation of any person to whom the citation was delivered.”.

(3) In Appendix 1, after Form 5 insert Forms 5A and 5B set out in Part 2 of the Schedule to this Act of Sederunt.

(4) The Sheriff Court Bankruptcy Rules as they applied immediately before 20th July 2011 continue to have effect for the purpose of any action raised but not determined prior to that date.