



Execution of Diligence (Scotland) Act 1926

1926 CHAPTER 16 16 and 17 Geo 5

2 Execution of arrestment or charge by registered letter in certain cases.

- (1) It shall be competent to execute by registered letter in accordance with the provisions hereinafter contained:—
- (a) an arrestment proceeding on any warrant or decree [^{F1}of the sheriff in a summary cause], or
 - (b) a charge upon a decree for payment of money, granted [^{F2}by the sheriff in a summary cause], if the place of execution is in any of the islands of Scotland or in any [^{F3}sheriff court district] in which there is no resident sheriff officer, or is more than twelve miles distant from the seat of the court where such decree was granted.
- (2) The following provisions shall apply to the execution by registered letter of an arrestment or charge in pursuance of the foregoing provisions of this section:—
- (a) A registered letter containing the writ or other document to be served shall be sent by post to the known residence or place of business of the person in whose hands the arrestment is to be used (hereinafter referred to as the arrestee) or against whom the charge is to be executed (hereinafter referred to as the debtor) or to the last known address of such arrestee or debtor if it continues to be his legal domicile or proper place of citation:
 - (b) The registered letter may be sent by a sheriff officer who would be entitled to execute the arrestment or the charge according to the law and practice existing at the passing of this Act, or by a messenger-at-arms resident in the sheriffdom in which the place of execution is situated, or, if there is no sheriff officer, or messenger-at-arms resident in the sheriffdom, by a [^{F4}solicitor]:
 - ^{F5}(c) On the back of the registered letter besides the address there shall be written or printed the following notice or a notice to the like effect:— “If delivery of this letter cannot be made, it is to be returned immediately to give the name and address of [^{F5}solicitor], messenger-at-arms or sheriff officer concerned”:
 - (d) The execution to be returned shall be accompanied by the Post Office receipt for the registered letter:

Changes to legislation: There are currently no known outstanding effects for the Execution of Diligence (Scotland) Act 1926, Section 2. (See end of Document for details)

- (e) Delivery of a registered letter sent in accordance with the foregoing provisions shall constitute a valid arrestment in the hands of the arrestee, or a valid execution of the charge against the debtor as the case may be as at the time of such delivery, and where in any proceedings in which the validity of such arrestment or of such charge is in question there is produced an acknowledgment or certificate of the delivery of the registered letter issued by [^{F6}a universal service provider (within the meaning of [^{F7}Part 3 of the Postal Services Act 2011]) in pursuance of any provision contained in a scheme made under section 89 of [^{F8}the Postal Services Act 2000]], the letter shall be presumed to have been delivered to the arrestee or to the debtor at the address and on the date specified in such acknowledgment or certificate, unless it shall be proved by the arrestee or the debtor or any person having an interest that the registered letter was never in fact delivered to or received by the arrestee or the debtor as the case may be, or any person with his authority, express or necessarily implied, or was so delivered on some other day:
- (f) Where, in any proceedings in which the validity of any such arrestment or of such charge is in question, it is proved that the registered letter sent in pursuance of the foregoing provisions was duly tendered at the proper address of the arrestee or the debtor, but was refused by him or by some person with his authority, express or necessarily implied; the Court may if it shall think fit hold such tender and refusal equivalent to delivery of the registered letter for the purposes of this section:
- (g) The provisions of [^{F9}rule 6.1] in the First Schedule to the ^{M1}Sheriff Courts (Scotland) Act 1907, shall not apply to service of a schedule of arrestment in accordance with the foregoing provisions.

Textual Amendments

- F1** Words substituted by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 1 para. 2(1)**
- F2** Words substituted by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 1 para. 2(2)**
- F3** Words substituted by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), s. 108, Sch. 6 para. 12, Sch. 7 paras. 5, **9(1)**
- F4** Word in s. 2(2)(b) substituted (22.4.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **Sch. 5 para. 7(2)(b)(iii)** (with s. 223); S.S.I. 2009/67, art. 3(2)(3), Sch. 1 (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))
- F5** Word in s. 2(2)(c) substituted (22.4.2009 for specified purposes) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **Sch. 5 para. 7(2)(c)** (with s. 223); S.S.I. 2009/67, art. 3(2)(3), Sch. 1 (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b)) (and as further amended (31.1.2011) by 2010 asp 8, s. 134(7), Sch. 4 para. 31; S.S.I. 2011/30, art. 3(1)(3), Sch. 1)
- F6** Words in s. 2(2)(e) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 10** (with Sch. 2, art. 4(11))
- F7** Words in s. 2(2)(e) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 76(a)**; S.I. 2011/2329, art. 3
- F8** Words in s. 2(2)(e) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 76(b)**; S.I. 2011/2329, art. 3
- F9** Words in s. 2(2)(g) substituted (22.4.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **Sch. 5 para. 7(2)(d)** (with s. 223); S.S.I. 2009/67, art. 3(2)(3), Sch. 1 (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))

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Modifications etc. (not altering text)

- C1** References to registered letters to be construed as including references to letters sent by recorded delivery service and references to Post Office receipt or certificate of delivery of a registered letter to be construed accordingly: [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1(1)(2), **Sch. para. 1**
- C2** S. 2 modified (S.) (1.4.2008) by [Enforcement of Fines \(Diligence\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/104\)](#), regs. 1(1), **3(a)**
- C3** S. 2(2)(c) amendment to earlier affecting provision 2007 asp. 3 sch. 5 para. 7(2)(c) (31.1.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 4 para. 31**; S.S.I. 2011/30, art. 3(1)(3), Sch. 1

Marginal Citations

- M1** 1907 c. 51.

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