



Registered Writs Execution (Scotland) Act 1877

1877 CHAPTER 40

An Act to amend the Form of Warrant of Execution on certain Extracts of Writs registered in the Books of Council and Session and Sheriff Court Books in Scotland; and to provide for the Authentication of certain Extracts of Writs. [10th August 1877]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1 Extracts of writs registered in Books of Council and Session to have, in certain cases, warrant for execution.

In all extracts of writs, deeds, or other documents which contain a clause of registration for preservation and execution, and which are registered in the register of deeds and probative writs and protests in the Books of Council and Session in Scotland, the keeper or assistant keeper of the said register shall insert a warrant for execution in the form, or as nearly as may be in the form, of the Schedule to this Act annexed.

The warrants for execution inserted in the extracts of all protests of bills, promissory notes or bankers notes, or certificates of judgment registered for execution under the Judgments Extension Act, 1868, shall be as nearly as may be in the form of the said Schedule to this Act annexed.

2 Extracts of writs registered in Sheriff Court Books to have warrant of execution in certain cases.

In all extracts of writs, deeds, or other documents which contain a clause of registration for preservation and execution, and which are registered in the Sheriff Court Books of any county in Scotland, and in all extracts of protests of bills, promissory notes, or bankers notes registered in the Sheriff Court Books, the sheriff clerk shall insert a

warrant of execution in the form, or as nearly as may be in the form, of the Schedule to this Act annexed.

3 Competent to arrest, charge, and poind by virtue of the extract, with warrant for execution thereon.

It shall be lawful by virtue of the warrant inserted in any extract under the provisions of the two preceding sections to arrest the readiest goods, debts, and sums of money of the debtor or obligant mentioned in such extract, in payment and satisfaction of the sum or sums of money or obligation or obligations therein specified, as also to charge the debtor or obligant therein mentioned to pay the sum or sums of money or to perform the obligation or obligations therein specified within the appropriate days of charge, under the pain of poinding and imprisonment, so far as competent, the terms of payment or implement being first come and bygone, and if he fail to obey the said charge, then, so far as competent, to apprise, poind, and distrain all his readiest goods, gear, and other effects, in payment and satisfaction of the said sum or sums or obligation or obligations, and if necessary for effecting said poinding to open shut and lockfast places.

4 Warrants of execution unchallengeable on certain grounds.

It shall not be competent to challenge the validity of extracts of writs, deeds, or other documents, or of extracts of protests of hills, promissory notes or hankers notes, or certificates of judgment as aforesaid, registered in the Books of Council and Session, or in the Sheriff Court Books, containing warrants of execution, and issued prior to the commencement of this Act from the offices of the register of deeds and probative writs and protests in the Books of Council and Session, or of sheriff clerks respectively, on the ground that the forms of such warrants are not in conformity with those prescribed by the Act passed in the first and second years of the reign of Her Majesty Queen Victoria, chapter one hundred and fourteen.

5 Extracts of deeds registered in the Books of Council and Session, and Register of Sasines, to be authenticated.

Extracts of all writs, deeds, or other documents of what nature soever, which may be registered in the Books of Council and Session, shall be equivalent to the registered writs, deeds, or other documents themselves, except where any writ, deed, or other document so registered shall be offered to be improven, and such extracts shall be signed, on the last page thereof, by the keeper or assistant keeper of the register of deeds and probative writs and protests in the Books of Council and Session; and extracts of all writs registered in and issued from the office of the General Register of Sasines shall be signed, on the last page thereof, by the keeper of the said register, or by a deputy duly commissioned by him to that effect, and no further signature on any other page of such extracts shall be necessary. But each sheet of all such extracts shall be impressed with an office seal or stamp to be kept in the respective offices of the said keepers; provided that it shall be necessary and sufficient in the case of marginal additions occurring in any extract that the same shall be authenticated by the signature of the officer certifying such extract.

6 Writs registered in the Register of Sasines for preservation only may afterwards be registered for preservation and execution.

Where any writ containing in gremio thereof a procuratory or clause of registration for preservation and execution shall have been registered in the General Register of Sasines upon a warrant of registration for preservation but not for execution, it shall be competent to present for registration in the said register an extract of such registered writ having a warrant of registration written thereon, bearing that such extract is to be registered for preservation and execution; and it shall be lawful to register such extract accordingly, and to issue one or more extracts thereof with warrant of execution in terms (mutatis mutandis) of Schedule B. annexed to the Land Registers (Scotland) Act, 1868, and every such warrant of execution shall have all the like force and effect as any warrant of execution issued in terms of the twelfth section of the said last-mentioned Act; and in making such subsequent registration it shall not be necessary to engross ad longum in the said register the extract so presented, but the registration thereof may be effected by the insertion of a memorandum of such extract in the appropriate division or divisions of said register, setting forth the volume of the register and the folio or folios of such volume in which said original writ is engrossed, and the insertion of such memorandum shall be deemed equivalent to the full engrossment in the division or divisions of the register in which such memorandum shall be entered as aforesaid of the extract so presented for registration.

7 After transmission of volumes of records of Books of Council and Session to the Lord Clerk Register, the deputy keeper of records may issue extracts of any deeds recorded in said volumes, and authenticate the same as well as other extracts.

Whereas, in terms of the twelfth section of the Act passed in the forty-ninth year of the reign of His Majesty King George the Third, chapter forty-two, the volumes of records of the Books of Council and Session are, along with the warrants thereof, periodically transmitted by the keeper of the register of deeds and probative writs and protests in the Books of Council and Session, to the Lord Clerk Register or his deputies; be it enacted, that the deputy keeper of the records or any officer holding a commission to that effect from the Lord Clerk Register may, at any time, issue extracts one or more of any writ, deed, or other document registered in said volumes of records transmitted as aforesaid, in the same or in a similar form to the extracts of such writs, deeds, or other documents which might have been issued previous to such transmission. And all such extracts and the warrants of execution therein contained shall have all the like force and effect as any extract from the Books of Council and Session, made and issued previous to such transmission, or as any warrant of execution contained in or appended to such extract; and in all extracts issued as aforesaid, and also in all extracts issued of writs contained in any record in the custody of the Lord Clerk Register, it shall be sufficient that the last page thereof shall be signed by the said deputy keeper of the records or by any officer duly commissioned by the Lord Clerk Register to that effect, and no further signature on any other page of such extracts shall be necessary, but each sheet of all such extracts shall be impressed with an office seal or stamp to be kept in the office of the Lord Clerk Register; provided that it shall be necessary and sufficient in the case of marginal additions occurring in any such extract that the same shall be authenticated by the signature of the officer certifying such extract.

Status: This is the original version (as it was originally enacted).

8 Commencement and extent of Act.

This Act shall take effect from and after the first day of October one thousand eight hundred and seventy-seven, and shall apply to Scotland only.

