
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 122

**Act of Sederunt (Rules of the Court of
Session Amendment No. 3) (Bankruptcy and
Diligence etc. (Scotland) Act 2007) 2008**

Interim diligence

3.—(1) Subparagraph (a) of rule 4.11(2) (borrowing of certain documents from process) is omitted.

(2) In rule 13.2(5)(1) (warrants which may be included in summons), the words “for diligence” are omitted.

(3) In rule 13.6A(1)(2) (authority for diligence etc before calling), subparagraphs (i) and (ii) are omitted.

(4) In rule 13.8A(3) (authority for diligence etc after calling), subparagraphs (i) and (ii) are omitted.

(5) Rule 13.9(4) (effect of authority for inhibition on the dependence) is omitted.

(6) Rule 13.10(5) (recall etc of arrestment or inhibition) is omitted.

(7) In Form 13.2-A(6) (form of summons and backing), under the heading “**Warrant for diligence**”, the words “[arrestment on the dependence of the action]” and “[inhibition on the dependence of the action]” are omitted.

(8) After Chapter 14 (petitions) insert—

“CHAPTER 14A
INTERIM DILIGENCE

Interpretation

14A.1. In this Chapter—

“the 1987 Act” means the Debtors (Scotland) Act 1987(7); and

“the 2002 Act” means the Debt Arrangement and Attachment (Scotland) Act 2002(8).

Application for interim diligence

14A.2.—(1) The following shall be made by motion—

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- (1) Rule 13.2 was amended by [S.S.I. 2007/282](#).
(2) Rule 13.6A was inserted by [S.S.I. 2003/537](#).
(3) Rule 13.8A was inserted by [S.S.I. 2003/537](#).
(4) Rule 13.9 was substituted by [S.S.I. 2003/537](#).
(5) Rule 13.10 was substituted by [S.S.I. 2003/537](#).
(6) Form 13.2-A was amended by [S.I. 1994/2901](#) and [S.S.I. 2003/537](#).
(7) [1987 c. 18](#).
(8) [2002 asp 9](#).

- (a) an application under section 15D(1) of the 1987 Act⁽⁹⁾ for warrant for diligence by arrestment or inhibition on dependence of an action or petition or warrant for arrestment on the dependence of an admiralty action;
 - (b) an application under section 9C of the 2002 Act⁽¹⁰⁾ for interim attachment.
- (2) Such an application must be accompanied by a statement in Form 14A.2.
- (3) A certified copy of an interlocutor granting a motion under paragraph (1) shall be sufficient authority for execution of the diligence concerned.

Effect of authority for inhibition on the dependence

14A.3.—(1) Where a person has been granted authority for inhibition on the dependence of an action or petition, a certified copy of the interlocutor granting the motion may be registered with a certificate of execution in the Register of Inhibitions and Adjudications.

(2) A notice of a certified copy of an interlocutor granting authority for inhibition under rule 14.A.2 may be registered under section 155 of the Titles to Land Consolidation (Scotland) Act 1868⁽¹¹⁾; and such registration shall have the same effect as registration of a notice under that section.

Recall etc of arrestment or inhibition

14A.4.—(1) 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.

(2) Any person having an interest may apply by motion for a warrant authorising the movement of a vessel or cargo which is the subject of arrestment on the dependence, and paragraphs (2) and (3) of rule 13.11⁽¹²⁾ (movement of arrested property) shall apply in such a case as they apply to the case of that rule.

Incidental applications in relation to interim diligence, etc

14A.5. An application to the Court under Part 1A of the 1987 Act⁽¹³⁾ or Part 1A of the 2002 Act⁽¹⁴⁾ not otherwise provided for shall be made by motion.”.

(9) In Rule 16.15⁽¹⁵⁾ (forms of diligence), after paragraph (1)(j) insert—

“(k) in the case of an interim attachment, a schedule in Form 2a, and a report of attachment in Form 2b, in Appendix 1 of Schedule 1 to the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002 **(16)**.”.

(10) In the Appendix, after Form 14.7 insert Form 14A.2 set out in the Schedule to this Act of Sederunt.

(11) But Chapter 13 of the Rules of the Court of Session 1994 as it applied immediately before 1st April 2008 continues to have effect for the purpose of any application for warrant for arrestment on the dependence or inhibition on the dependence made before that date.

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

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

(11) 1868 c. 101.

(12) Rule 13.11 was amended by [S.S.I. 2003/537](#).

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

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

(15) Rule 16.15 was amended by [S.I. 1998/2637](#) and [S.S.I. 2002/560](#).

(16) [S.S.I. 2002/560](#) as last amended by [SSI2007/466](#).

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