SCOTTISH STATUTORY INSTRUMENTS

# 2003 No. 537

# COURT OF SESSION

## Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Diligence on the Dependence) 2003

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| *Made - - - -* | *7th November 2003* |
| *Coming into force - -* | *10th November 2003* |

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 5 of the Court of Session Act 1988(**1**) and of all other powers enabling them in that behalf, do hereby enact and declare:

**Citation and commencement**

**1.**—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Diligence on the Dependence) 2003 and shall come into force on 10th November 2003.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

**Amendment of the Rules of the Court of Session**

**2.**—(1) The Rules of the Court of Session 1994(**2**) shall be amended in accordance with the following sub-paragraphs.

(2) For rule 13.6 there shall be substituted the following:–

"Authority for service and intimation on signeting

**13.6.** When signeted, a summons shall be authority for—

(a) service on the defender designed in the instance; and

(b) intimation of the summons on any person on whom intimation is required in these Rules where a warrant for that purpose has been inserted in the summons.

(**1**) 1988 c. 36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 c. 32, section 2(3) and by the Children (Scotland) Act 1995 c. 36, Schedule 4, paragraph 45.
(**2**) S.I. 1994/1443, last amended by S.S.I. 2003/385.

Authority for diligence etc. before calling

**13.6A.**—(1) Before the calling of a summons, the pursuer may apply by motion for authority for—

(a) arrestment to found jurisdiction; or

(b) diligence by—

(i) inhibition on the dependence of the action;

(ii) arrestment on the dependence of the action where there is a conclusion for the payment of money;

(iii) arrestment *in rem*; or

(iv) dismantling a ship,

where a warrant in the appropriate form in Form 13.2–A has been inserted in the summons.

(2) Where a Lord Ordinary pronounces an interlocutor granting a motion under paragraph (1)—

(a) he shall record his interlocutor by signing the warrant in the summons; and

(b) the signed warrant shall be sufficient authority for execution of the arrestment to found jurisdiction or, as the case may be, the diligence.".

(3) For rule 13.8 there shall be substituted the following:–

"Authority for intimation after signeting

**13.8.** Where a warrant for intimation referred to in rule 13.6(b) is not obtained when the summons is signeted, the pursuer may apply by motion for authority for intimation of the summons on any person on whom intimation is required in these Rules.

Authority for diligence etc. after calling

**13.8A.**—(1) After the calling of a summons, a pursuer may apply by motion for authority for—

(a) arrestment to found jurisdiction; or

(b) diligence by—

(i) inhibition on the dependence of the action;

(ii) arrestment on the dependence of the action where there is a conclusion for the payment of money;

(iii) arrestment in rem; or

(iv) dismantling a ship.

(2) A certified copy of an interlocutor granting a motion under paragraph (1) shall be sufficient authority for execution of the arrestment to found jurisdiction or, as the case may be, the diligence.".

(4) For rule 13.9 (effect of warrants for inhibition on the dependence) there shall be substituted the following:–

"Effect of authority for inhibition on the dependence

**13.9.**—(1) Where a pursuer has been granted authority for inhibition on the dependence of an action, the signed warrant or, as the case may be, a certified copy of the interlocutor granting the motion under rule 13.8A—

(a) shall have the same effect as letters of inhibition;

(b) may be executed at the same time as the summons is served or at any time thereafter; and

(c) 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 13.8A may be registered under section 155 of the Titles to Land Consolidation (Scotland) Act 1868(**3**); and such registration shall have the same effect as registration of a notice under that section.".

(5) For rule 13.10(1) (application for recall etc. of arrestment or inhibition) there shall be substituted the following:–

"Recall etc. of arrestment or inhibition

**13.10.**—(1) An application by any person having an interest—

(a) to loose, restrict or recall an arrestment; or

(b) to recall, in whole or in part, an inhibition,

shall be made by motion.".

(6) In rule 13.11(1) (application to move arrested vessel or cargo) for "rule 13.6" there shall be substituted "rule 13.6A".

(7) For rule 25.2 (warrants for diligence on counterclaims) there shall be substituted the following:–

"Authority for diligence etc. on counterclaims

**25.2.**—(1) A defender who lodges a counterclaim may apply by motion for authority for diligence by—

(a) inhibition on the dependence of the action;

(b) arrestment on the dependence of the action where there is a conclusion for the payment of money;

(c) arrestment *in rem*; or

(d) dismantling a ship.

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

(3) A certified copy of an interlocutor granting authority for inhibition under this rule may be registered with a certificate of execution in the Register of Inhibitions and Adjudications.

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

(**3**) 1868 c. 101.