

ACT OF SEDERUNT (SMALL CLAIM RULES) 2002 NO. 133

CHAPTER 7 ARRESTMENT

(for arrestments on the dependence made prior to 1 April 2008)

- 7.1. [Service of schedule of arrestment](#)
- 7.2. [Arrestment before service](#)
- 7.3. [Recall and restriction of arrestment](#)

Service of schedule of arrestment

7.1. If a schedule of arrestment has not been personally served on an arrestee, the arrestment shall have effect only if a copy of the schedule is also sent by registered post or the first class recorded delivery service to-

- (a) the last known place of residence of the arrestee; or
- (b) if such place of residence is not known, or if the arrestee is a firm or corporation, to the arrestee's principal place of business if known, or, if not known, to any known place of business of the arrestee,

and the sheriff officer must, on the certificate of execution, certify that this has been done and specify the address to which the copy of the schedule was sent.

Arrestment before service

7.2. (1) An arrestment to found jurisdiction or an arrestment on the dependence of a claim used prior to service shall cease to have effect, unless the summons is served within 21 days from the date of execution of the arrestment.

- (2) When such an arrestment as is referred to in paragraph (1) has been executed, the party using it must forthwith report the execution to the sheriff clerk.

Recall and restriction of arrestment

7.3. (1) The sheriff may order that an arrestment on the dependence of a claim or counterclaim shall cease to have effect if the party whose funds or property are arrested-

- (a) pays into court; or
- (b) finds caution to the satisfaction of the sheriff clerk in respect of the sum claimed together with the sum of £50 in respect of expenses.

(2) Without prejudice to paragraph (1), a party whose funds or property are arrested may at any time apply to the sheriff to exercise his powers to recall or restrict an arrestment on the dependence of a claim or counterclaim, with or without consignment or caution.

(3) An application made under paragraph (3) must be intimated by the applicant to the party who instructed the arrestment.

(4) On payment into court or the finding of caution to the satisfaction of the sheriff clerk in accordance with paragraph (1), or if the sheriff recalls or restricts an arrestment on the dependence of a claim in accordance with

paragraph (2) and any condition imposed by the sheriff has been complied with, the sheriff clerk must-

- (a) issue to the party whose funds or property are arrested a certificate in Form 10 authorising the release of any sum or property arrested to the extent ordered by the sheriff; and
- (b) send a copy of the certificate to-
 - (i) the party who instructed the arrestment; and
 - (ii) the party who has possession of the funds or property that are arrested.