CHAPTER 77.

An Act to amend the Law of Citation in Scotland. A.D. 1882.

[18th August 1882.]

WHEREAS by the Citation Amendment (Scotland) Act, the process of citation in Scotland was amended in certain particulars, and it is desirable that it should be further amended: 34 & 35 Vict. c. 42.

Be it therefore 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. This Act may be cited as the Citation Amendment (Scotland) Act, 1882. Short title.

2. This Act shall commence on the first day of January one thousand eight hundred and eighty-three. Commencement of Act.

3. From and after the commencement of this Act— Citation may be by registered letter.

In any civil action or proceeding in any court or before any person or body of persons having by law power to cite parties or witnesses, any summons or warrant of citation of a person, whether as a party or witness, or warrant of service or judicial intimation, may be executed in Scotland by an officer of the court from which such summons, warrant, or judicial intimation was issued, or other officer who, according to the present law and practice might lawfully execute the same, or by an enrolled law agent, by sending to the known residence or place of business of the person upon whom such summons, warrant, or judicial intimation is to be served, or to his last known address, if it continues to be his legal domicile or proper place of citation, or to the office of the keeper of edictal citations, where the summons, warrant, or judicial intimation is required to be sent to that office, a registered letter by post containing the copy of the summons or petition or other document required by law in the particular case to be served, with the proper

A.D. 1882.

citation or notice subjoined thereto, or containing such other citation or notice as may be required in the circumstances, and such posting shall constitute a legal and valid citation, unless the person cited shall prove that such letter was not left or tendered at his known residence or place of business, or at his last known address if it continues to be his legal domicile or proper place of citation.

Execution.

4. The following provisions shall apply to service by registered letter:—

(1.) The citation or notice subjoined to the copy or other citation or notice required in the circumstances shall specify the date of posting, and in cases where the party is not cited to a fixed diet, but to appear or lodge answers or other pleadings within a certain period, shall also state that the induciæ or period for appearance or lodging answers or other pleadings is reckoned from that date:

(2.) The induciæ or period of notice shall be reckoned from twenty-four hours after the time of posting:

(3.) The execution to be returned by the officer or law agent shall be accompanied by the Post Office receipt for the registered letter. The execution returned by a law agent shall for all purposes be equivalent to an execution by an officer of court. The execution may be in the form contained in the First Schedule hereto:

Notice on back of letter.

(4.) On the back of such registered letter besides the address there shall be written or printed the following notice or a notice to the like effect:

This letter contains a citation to or intimation from [*specify the court*]. If delivery of the letter cannot be made, it is to be returned immediately to [*give the official name and office or place of business of the clerk of court*]:

Letter not delivered to be returned to clerk of court.

(5.) If delivery of the letter be not made because the address cannot be found, or because the house or place of business at the address is shut up, or because the letter carrier is informed at the address that the person to whom the letter is addressed is not known there, or because the letter was refused, or because the address is not within a postal delivery district and the letter is not called for within twenty-four hours after its receipt at the post office of the place to which it is addressed, or for any other reason, the letter shall be immediately returned through the Post Office to the clerk of court, with the reason for the failure to deliver marked thereon, and the clerk shall

make intimation to the party at whose instance the summons, warrant, or intimation was issued or obtained, and shall, where the order for service was made by a judge or magistrate, present the letter to a judge or magistrate of the court from which the summons, warrant, or intimation was issued, and he may, if he shall think fit, order service of new, either according to the present law and practice or in the manner herein-before provided, and if need be substitute a new diet of appearance. Where the judge or magistrate is satisfied that the letter has been tendered at the proper address of the party or witness and refused, he may in the case of a witness, without waiting for the diet of appearance, issue second diligence to secure his attendance, and in the case of a party hold the tender equal to a good citation.

Fees.

5. The fees for service under this Act shall be those contained in the Second Schedule hereto, and no other or higher fees shall be allowed on taxation.

Mode of service optional.

6. It shall be lawful to execute summonses and warrants of citation, warrants of service, judicial intimations, either according to the existing law and practice or in the manner provided by this Act:

Provided that no higher fees shall be allowed on taxation than those contained in the Schedule hereto, unless the judge or magistrate deciding the case shall be of opinion that it was not expedient in the interests of justice that such service should be made in the manner herein-before provided.

Definition.

7. The word "person" shall include corporation, company, firm, or other body requiring to be cited or to receive intimation.

A.D. 1882.

SCHEDULES.

FIRST SCHEDULE.

This summons, or warrant of citation, or note of suspension, or petition, or other writ or citation executed [*or* intimated] by me [*insert name*] messenger at arms [*or* other officer or law agent] against [*or* to] [*insert name or names*] defender [*or* defenders, *or* respondent or respondents, *or* witness or witnesses, *or* haver or havers, *or otherwise as the case may be*], by posting on last, between the hours of and , at the post office of , a copy of the same to him [*or* them], with citation [*or* notice] subjoined, [*or* citation or notice where no copy is sent], in a registered letter [*or* registered letters], addressed as follows, viz.:

Signature of officer or agent.

SECOND SCHEDULE.

Fees for Service or Citation by Registered Letter and for Returning Execution.

A. COURT OF SESSION.

	s.	*d.*
1. PARTIES—		
If one party - - - - -	3	6
If more than one, for each party after the first -	2	6
2. WITNESSES—		
For citing each witness - - - -	1	6
3. POST OFFICE CHARGE FOR REGISTRATION AND POSTAGE OF LETTER.		

B. INFERIOR COURTS.

	s.	*d.*
1. PARTIES—		
For citing to small debt courts, claim not exceeding 5*l.* - - - - -	1	0
Claim above 5*l.* and not exceeding 12*l.* - -	1	6
For citing to debts recovery court - - -	2	0
For citing to ordinary court or any other citation not above included - - - -	2	6

Where there are more parties than one cited in the same cause and only one execution is necessary, the above-mentioned fees respectively shall be allowed for the first party only, and two-thirds thereof for every other.

	s.	*d.*
2. WITNESSES—		
(1.) Small debt and debts recovery courts :—		
For citing one witness - - -	1	0
For citing every witness after the first for the same diet - - - - -	0	8
(2.) Ordinary court :—		
For citing one witness - - -	1	6
For citing every witness after the first for the same diet - - - - -	1	0
3. POST OFFICE CHARGE FOR REGISTRATION AND POSTAGE OF LETTER.		

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