SCOTTISH STATUTORY INSTRUMENTS

2025 No. 402

DEBT

DILIGENCE

The Removing from Heritable Property (Form of Charge) Amendment (Scotland) Regulations 2025

Made - - - -	*16th December 2025*
Laid before the Scottish Parliament	*18th December 2025*
Coming into force - -	*1st August 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 216(6) of the Bankruptcy and Diligence etc. (Scotland) Act 2007(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Removing from Heritable Property (Form of Charge) Amendment (Scotland) Regulations 2025 and come into force on 1 August 2026.

Amendment of The Removing from Heritable Property (Form of Charge) (Scotland) Regulations 2011

2.—(1) The Removing from Heritable Property (Form of Charge) (Scotland) Regulations 2011(**b**) are amended in accordance with paragraphs (2) to (4).

(2) For regulation 2 insert—

"**2.** Subject to regulation 3, the form of charge prescribed for the purposes of section 216(1) (service of charge before removing) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 is set out in schedule 1.

3. Where the decree for removing from heritable property is obtained in connection with proceedings raised under section 14(1)(a) or (b) of the Housing (Scotland) Act 2001(**c**) on the ground set out in paragraph 15A of schedule 2 of that Act, the form of charge prescribed

(**a**) 2007 asp 3. Section 216 was amended by the Housing (Scotland) Act 2010 (asp 17), s152(3), the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 4 paragraph 24, the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), schedule 4 paragraph 10(3), the Criminal Finances Act 2017 (c. 22), schedule 5 paragraph 92 and regulation 6(4) of S.S.I. 2019/51.

(**b**) S.S.I. 2011/158. The schedule was amended by regulation 5 of S.S.I. 2019/51.

(**c**) 2001 asp 10. Section 16 was amended by the Domestic Abuse (Protection) (Scotland) Act 2021 (asp 16), section 22(3) and (6). Section 16(2)(aa) was inserted by section 14(2)(a) of the Housing (Scotland) Act 2014 (asp 14) ("the 2014 Act"), section 16(3A) was inserted by section 14(2)(b) of the 2014 Act and section 16(5A) and (5B) were inserted by section 153(a) of the Housing (Scotland) Act 2010 (asp 17).

for the purposes of section 216(1) (service of charge before removing) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 is set out in schedule 2.".

(3) In the schedule after "FORM OF CHARGE FOR REMOVING" insert "(REGULATION 2)".

(4) After the schedule insert—

"SCHEDULE 2 Regulation 3

FORM OF CHARGE FOR REMOVING (REGULATION 3)

CHARGE FOR REMOVING

(insert name, address and, as appropriate, designation of pursuer)

PURSUER

Against

(insert name, address and, as appropriate, designation of defender)

DEFENDER

IT IS IMPORTANT YOU READ THIS NOTICE – YOU ARE AT RISK OF BEING REMOVED FROM YOUR HOME

Date: *(date of service)*

To: *(name and address of DEFENDER)*

A decree for removing from heritable property was granted in an action against you in the sheriff court at *(place)* on *(date)*

The decree was extracted on *(date)*.

In His Majesty's name and authority and in the name and authority of the sheriff I, (name), [Messenger-at-Arms or Sheriff Officer], by virtue of a decree of removing from heritable property, as defined in section 214 of the Bankruptcy and Diligence etc. (Scotland) Act 2007, lawfully charge you to remove yourself [*(and names or description of other occupant(s) whose removal or ejection is authorised by the decree)*]* together with all of your [and their]* effects, possessions and belongings, from the premises situated at *(address where removal is to take place)* and to leave the premises within 14 days* *(*or such other period as is specified by the court)* after the date of service of this charge for removing. [The sheriff has directed that any of your effects left in the property will be preserved by sheriff officers. You will be liable for any costs incurred in the preservation of these effects].*

*delete as appropriate

This charge for removing is served upon you on *(insert date)*, before and in the presence of *(name, occupation and address of witness)*.

…… (Signed)……..

(Witness) [Messenger-at-Arms][Sheriff Officer]

(Address)

Instructed by:- *(name and address of instructing agent)*

IMPORTANT – DO NOT IGNORE THIS NOTICE

If you do not remove yourself from the premises (together with others deriving a right from you to occupy the premises who are named in this charge), within the time specified in this charge, you may be removed by a Messenger-at-Arms or Sheriff Officer.

YOU ARE STRONGLY RECOMMENDED TO SEEK ADVICE (INCLUDING LEGAL ADVICE) AS SOON AS POSSIBLE"

MAIRI McALLAN
A member of the Scottish Government

St Andrew's House,
Edinburgh
16th December 2025

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Removing from Heritable Property (Form of Charge) (Scotland) Regulations 2011 which prescribe the Form of Charge required to be served by an officer of the court before removing a person, and any effects that person may have, from heritable property by virtue of a court decree or warrant.

The procedures for removal are prescribed under Part 15 of the Bankruptcy and Diligence etc. (Scotland) Act 2007. Section 216(2) of that Act provides for the removal of an occupant deriving a right or having permission from the defender.

These amending Regulations add a new Form to be used where the decree for removing from heritable property is an order made under section 16(2)(d) or (e) or a warrant granted in connection with an order under section 16(3ZA) of the Housing (Scotland) Act 2001 ("the 2001 Act"). These are orders for recovery of possession or termination of a joint tenant's interest on the ground set out in paragraph 15A of schedule 2 of the 2001 Act where the tenant or joint tenant has engaged in abusive behaviour towards their partner or ex-partner.

The new Form of Charge makes it clear that the defender is only charged with removing others who derive a right from them to occupy the premises if those others are named in the decree. This differs from the existing Form of Charge which charges the defender to remove any sub-tenants, dependants and others deriving a right to occupy the premises from them. The new Form of Charge is necessary where decrees are granted on the ground set out in paragraph 15A of schedule 2 of the 2001 Act to ensure that the defender is not charged with removing their partner or ex-partner and any children who will be remaining in the property.

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