

# *The Executions Act*

*being*

Chapter E-12 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1979-80, c.24 and 92; 1980-81, c.54 and 55; 1984-85-86, c.2, 16 and 77; 1988-89, c.52; 1993, c.P-6.2; 1998, c.48; 2000, c.L-5.1; and 2001, c.20.*

## **NOTE:**

**This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.**

## Table of Contents

	SHORT TITLE		SALE BY SHERIFF
1	Short title	18	Notice of sale
	INTERPRETATION	19	Growing crops
2	Interpretation	20	Sale of grain
	EXECUTIONS AGAINST GOODS	21	Sale of mortgage
2.1	Transitional; writ to bind all goods of debtor		EXECUTION AGAINST LANDS
2.2	Writ to bind all goods of debtor	22	Issue of execution
2.3	Writ to bind all lands of debtor	23	Leave required for sale of lands, exception
3	Equity of redemption in goods	24	Notice of sale
4	Sheriff taking bond	25(1)	Return <i>nulla bona</i> before sale of lands
	SEIZURE OF MONEY AND SECURITIES	25(4)	Adjournment of sale
5	Powers of sheriff	26	Registration and renewal of writs
6	Transfer of money, etc., a discharge	27	Assignment of execution
7	Effect of payment to sheriff	28	Satisfaction or withdrawal of writ
8	Payment of proceeds	29	Sheriff's transfer of unpatented land
9	Indemnity of sheriff	30	Judgment debts to carry interest
10	Rights under patent of invention		GENERAL PROVISIONS
	SEIZURE OF MORTGAGES	31	Registration of writ
11	Powers of sheriff re: registration in Land Titles Registry	31.1	Transitional, registration of writ
11.1	Powers of sheriff	31.2	Deemed registration in Personal Property Registry
	ORDER CHARGING STOCKS AND SHARES	32	Repealed
12	Charging orders	33	Writ may be sent to any sheriff
13	Procedure	34	Transfer of writ at request of execution creditor
14	Effect of summons	35	Transfer of writ by sheriff of his own motion
15	Orders as judgments		EXECUTION ON JUDGMENT OBTAINED UPON A JUDGMENT
16	Company in liquidation	36	Priority of old writ retained by new writ in certain case
	SHARES AND DIVIDENDS		WITHDRAWAL BY SHERIFF FROM POSSESSION OF PROPERTY SEIZED
17	Seizure of shares and dividends	37	Protection order

## CHAPTER E-12

### An Act respecting Executions

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as *The Executions Act*.

#### INTERPRETATION

##### Interpretation

- 2 In this Act:

- (a) **“goods”** means tangible personal property, other than choses in action and money, and includes fixtures, growing crops and the unborn young of animals, but does not include timber until it is cut or minerals until they are extracted;
- (b) **“purchase-money security interest”** means:
- (i) a security interest that is taken or reserved by a seller, lessor or consignor of goods to secure payment of all or part of its sale or lease price; or
- (ii) a security interest that is taken by a person who gives value for the purpose of enabling the debtor to acquire rights in or to the goods, to the extent that the value is applied to acquire such rights;
- (c) **“registered”** means, in connection with a security interest or a writ of execution, registered in the Personal Property Registry in accordance with *The Personal Property Security Act, 1993* and the regulations made under that Act;
- (d) **“secured party”** means a party who has a security interest;
- (e) **“security interest”** means an interest in goods that secures payment or performance of an obligation.

1979-80, c.24, s.3; 1993, c.P-6.2, s.75.

#### EXECUTIONS AGAINST GOODS

##### Transitional; writ to bind all goods of debtor

- 2.1 Every writ of execution issued against goods prior to May 1, 1981:

- (a) binds, from the time of its delivery to the sheriff to be executed, all the goods of the judgment debtor within the province; and

(b) takes priority over:

(i) any chattel mortgage or bill of sale which, by virtue of *The Bills of Sale Act* as it existed on April 30, 1981, and notwithstanding section 70 of *The Personal Property Security Act, 1993*, had not taken effect prior to the receipt by the sheriff of the writ of execution, as against the interests of the creditor under the execution;

(ii) a security interest to which *The Personal Property Security Act* or *The Personal Property Security Act, 1993* applies that is taken or granted on or after May 1, 1981;

but does not take priority over:

(c) a security interest in the goods referred to in section 4 of *The Personal Property Security Act, 1993*;

(d) a chattel mortgage that had taken effect according to this section prior to receipt by the sheriff of the writ of execution and that is continued by registration of a renewal statement pursuant to subsection 72(2) of *The Personal Property Security Act, 1993* or by the secured party's taking possession of the goods;

(e) a purchase-money security interest in the goods as defined in subclause 2(b)(i) of this Act; or

(f) a bona fide sale by the judgment debtor accompanied by an immediate delivery and an actual and continued change of possession of the goods sold, without actual notice to the purchaser that the writ is in the hands of the sheriff.

1980-81, c.55, s.3; 1993, c.P-6.2, s.75 and 78.

**Writ to bind all goods of debtor**

**2.2** Every writ of execution issued against goods on or after the coming into force of *The Personal Property Security Act* or *The Personal Property Security Act, 1993*, binds, from the time of its delivery to the sheriff to be executed, all the goods of the judgment debtor within the province, and, if it is registered, takes priority over a security interest which has not been registered or which is registered after the writ of execution is registered, but does not take priority over:

(a) a *bona fide* sale by the judgment debtor, accompanied by immediate delivery and an actual and continued change of possession of the goods sold, without actual knowledge to the purchaser that a writ is in the hands of the sheriff or that a seizure has been made;

(b) the interests of a secured party who has taken possession of the goods before the writ of execution is registered;

(c) the interests of a secured party who has taken a purchase money security interest that is perfected pursuant to *The Personal Property Security Act* or *The Personal Property Security Act, 1993* before or within fifteen days after the debtor obtains possession of the goods, whether perfected before or after registration of the writ of execution.

1979-80, c.24, s.3; 1993, c.P-6.2, s.78.

## EXECUTIONS

c. E-12

**Writ to bind all lands of debtor**

2.3(1) On the coming into force of this section, every writ of execution must be issued against goods and lands.

(2) Once a writ of execution is issued in accordance with subsection (1):

- (a) it binds goods and is effective in accordance with section 2.2; and
- (b) it binds lands in accordance with section 26.

2000, c.L-5.1, s.245.

**Equity of redemption in goods**

3 Under a writ of execution against goods the sheriff charged with the execution of the writ may seize and sell the interest or equity of redemption in any goods or chattels, including leasehold interests in any lands, of the party against whom the writ has issued, and such sale shall convey whatever interest the judgment debtor had in the goods and chattels at the time of the seizure.

R.S.S. 1978, c.E-12, s.3.

**Sheriff taking bond**

4 Where the sheriff having seized goods under a writ of execution takes a bond from the execution debtor binding him to hold the goods for the sheriff and to deliver them upon demand, the sheriff shall be deemed to remain in possession during the currency of the bond and the obligor to be his bailee.

R.S.S. 1978, c.E-12, s.4.

## SEIZURE OF MONEY AND SECURITIES

**Powers of sheriff**

5(1) The sheriff, having the execution of a writ against goods, may seize money or bank notes belonging to the debtor, including the surplus of a former execution against him and any moneys levied under an execution issued upon a judgment in his favour, as well as any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties, or other securities for money belonging to the debtor, and he may, subject to *The Creditors' Relief Act*, pay and assign such securities to the execution creditor at the sum actually due on and secured by them respectively, if the creditor will accept them as money collected, or he may sue in his own name for the recovery of the sums secured thereby.

(2) The sheriff may seize any book debts and other choses in action of the execution debtor and may collect in his own name or sue for the recovery of the moneys payable in respect thereof, or he may proceed to sell the book debts and other choses in action of the execution debtor in the same manner as the debtor's goods may be sold when taken in execution.

R.S.S. 1978, c.E-12, s.5; 1980-81, c.54, s.3.

**Transfer of money, etc., a discharge**

6 The transfer, by the sheriff to the execution creditor, of any cheques or property named in section 5 shall, to the extent of the amount due on and secured thereby, discharge the sheriff.

R.S.S. 1978, c.E-12, s.6.

**Effect of payment to sheriff**

7 Payment to the sheriff by the person liable on such cheque, bill of exchange, promissory note, bond, mortgage, speciality or other security or on such book debt or other chose in action, with or without suit, or recovery by the sheriff from him, shall discharge the person so liable, to the extent of the payment or recovery, from his liability thereon.

R.S.S. 1978, c.E-12, s.7; 1980-81, c.54, s.4.

**Payment of proceeds**

8 Subject to *The Creditors' Relief Act* and subject to section 32 of *The Enforcement of Maintenance Orders Act* in the case of an execution on a maintenance order as defined in that Act, the sheriff shall pay over to the party who sued out the execution the money so paid or recovered, or a sufficient sum to discharge the amount directed to be levied, and if, after satisfaction thereof and of the fees, poundage and expenses of the sheriff, a surplus remains, the surplus shall be paid to the party against whom the execution issued.

R.S.S. 1978, c.E-12, s.8; 1984-85-86, c.77, s.6.

**Indemnity of sheriff**

9 A sheriff shall not be bound to sue the person liable upon such cheque, bill of exchange, promissory note, bond, mortgage, speciality or other security, unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof; and the expenses of the bond, not exceeding \$5, may be deducted from any money recovered in the action.

R.S.S. 1978, c.E-12, s.9.

**Rights under patent of invention**

10(1) For the purposes of this Act, all rights under letters patent of invention and any equitable or other right, property, interest or equity of redemption therein is deemed to be personal property and may be seized and sold under execution in like manner as other personal property.

(2) A seizure and sale under subsection (1) may be made by a sheriff having in his hands a writ of execution to be executed against the property of the debtor who is the owner of or interested in the letters patent.

(3) Notice of the seizure shall forthwith be sent to the Patent Office, Ottawa, and the interest of the debtor is bound from the time when the notice is received at that office.

R.S.S. 1978, c.E-12, s.10.

## SEIZURE OF MORTGAGES

**Powers of sheriff re: registration in Land Titles Registry**

11(1) A sheriff charged with the execution of a writ of execution against goods may seize under that writ any mortgage against real property in favour of the execution debtor for which an interest based on the mortgage has been registered in the Land Titles Registry.

(2) Seizure pursuant to subsection (1) is effected by:

- (a) registering the writ of execution in the Saskatchewan Writ Registry; and
- (b) registering an interest based on the writ of execution in the Land Titles Registry against the interest based on the mortgage.

(3) The interest based on the mortgage mentioned in clause (2)(b) is not affected or charged by a writ of execution until the interest based on the writ of execution is registered in the Land Titles Registry in accordance with clause (2)(b).

(4) The mortgagor shall not be affected by the seizure pursuant to this section until a notice of the seizure has been personally served on the mortgagor, and any payments made by the mortgagor to the mortgagee before service of the notice are valid.

2000, c.L-5.1, s.246.

**Powers of sheriff**

11.1(1) A sheriff charged with the execution of a writ of execution against goods may seize under that writ any registered security interest against personal property in favour of the execution debtor by delivering a notice in writing of the seizure to the proper officer in the office where the security interest is registered, but no security interest is affected or charged by a writ of execution until delivery of the notice.

(2) On receipt of the notice mentioned in subsection (1), the proper officer shall make an entry of the receipt in the register, for which he or she is entitled to a fee of 50 cents.

(3) The debtor under the security agreement shall not be affected by the seizure until a notice of the seizure has been personally served on the debtor, and any payments made by the debtor to the secured party before service of the notice are valid.

2000, c.L-5.1, s.246.

## ORDER CHARGING STOCKS AND SHARES

**Charging orders**

12(1) If any person against whom judgment has been entered has Government stock, funds or annuities of the Province of Saskatchewan, or any stock or shares of or in a company, standing in his name in his own right, or in the name of any person in trust for him, a judge of the Court of Queen's Bench may, on the application of a judgment creditor, order that the stock, funds or annuities shall stand charged with the amount of the judgment and interest.

(2) The order shall entitle the judgment creditor to all the remedies he would have been entitled to if the charge had been made in his favour by the judgment debtor, but no proceedings shall be taken to enforce the charge until after the expiration of six calendar months from the date of the order.

R.S.S. 1978, c.E-12, s.12.

**Procedure**

13 Every such order shall be made in the first instance *ex parte* and without notice to the judgment debtor, and shall be a summons to show cause only.

R.S.S. 1978, c.E-12, s.13.

**Effect of summons**

14(1) Such summons, if any Government stock, funds or annuities standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected thereby, shall restrain the Minister of Finance from permitting a transfer of the stock in the meantime and until the order shall be made absolute or discharged; and if any stock or shares of or in a company standing in the name of the judgment debtor in his own right or in the name of a person in trust for him, is or are to be affected, shall in like manner restrain the company from permitting a transfer thereof.

(2) If, after notice of such order to the persons to be restrained thereby or in the case of companies to an authorized agent of the company, such persons or company shall before the order is discharged or made absolute permit a transfer to be made, the persons or company so doing shall be liable to the judgment creditor for the value of the property charged and transferred or such part thereof as may be sufficient to satisfy his judgment.

(3) No disposition of the judgment debtor made after the notice mentioned in subsection (2) and before the order is made absolute or discharged, shall be valid or effectual as against the judgment creditor.

(4) Unless the judgment debtor, within a time to be mentioned therein, shows to a judge sufficient cause to the contrary, the order shall, after proof of notice thereof to the judgment debtor, his attorney or agent, be made absolute.

(5) The judge dealing with the matter may, upon the application of the judgment debtor or any person interested, discharge or vary the order and award such costs as he thinks fit.

R.S.S. 1978, c.E-12, s.14.



## EXECUTIONS

c. E-12

**Orders as judgments**

**15** All orders of a judge whereby any sum of money, or any costs, charges or expenses, are payable, shall have the effect of judgments in the courts, and the persons to whom such moneys, or costs, charges or expenses, are payable, shall be deemed judgment creditors within the meaning of this Act, and shall have all the remedies hereby given to judgment creditors.

R.S.S. 1978, c.E-12, s.15.

**Company in liquidation**

**16** When a charging order absolute is made or has been made against any stock, share or shares of a company that is in liquidation, the court or a judge may direct the liquidator to pay to the judgment creditor any moneys from time to time payable in respect of the stock, share or shares, to the amount necessary to satisfy the judgment debt and costs.

R.S.S. 1978, c.E-12, s.16.

## SHARES AND DIVIDENDS

**Seizure of shares and dividends**

**17(1)** Notwithstanding sections 12 to 16, for the purposes of this Act shares and dividends and any equitable or other right, property or interest or equity of redemption in or in respect of shares or dividends in an incorporated bank or an incorporated company having transferable shares are deemed to be personal property found in the place where notice of the seizure thereof is served, and may be seized under execution and may be sold thereunder in accordance with this section in like manner as other personal property.

(2) The sheriff, on being informed by or on behalf of the judgment creditor that the debtor has such shares as are referred to in subsection (1) and on being required to seize them, shall:

- (a) seize the share certificates or other documents evidencing the ownership of the shares; and
- (b) either before or within five days after the seizure, serve a copy of the writ of execution on the bank or company and a notice that all the shares of the debtor are seized thereunder.

(3) No transfer by the debtor of shares seized under this section is valid after the service of the notice referred to in clause (b) of subsection (2) unless prior to the transfer the sheriff notifies the bank or company that the seizure has been withdrawn.

(4) A seizure and sale of shares made under an execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized and the same shall not, after notice is given in accordance with subsection (2), be paid by the bank or company to anyone except the person to whom the shares are sold.

(5) A seizure may be made and notice given by the sheriff making the seizure at the judicial centre where the bank or company has a place at which service of process may be made or where a share register is kept.

(6) Where the bank or company concerned has more than one place where service of process may be made and there is some place, other than the place where service of the notice is made, where transfers of shares may be effected and entered by the bank or company so as to be valid as regards the bank or company, or where dividends or profits on shares referred to in subsection (4) may be paid, the notice does not affect any transfer or payment of dividends or profits duly made and entered at a place, other than the place where service of the process was made, so as to subject the bank or company to pay twice or so as to affect the rights of any *bona fide* purchaser until after the expiration of a period from the time of service sufficient for the transmission by the bank or company of notice of service by mail from the place where it was made to the place where the transfer or payment of dividends or profits, as the case may be, was made.

(7) Where in accordance with this section the sheriff sells shares that have been seized by him, he shall, within ten days after sale, serve upon the bank or company at some place where service of process may be made a copy of the execution with his certificate endorsed thereon certifying the sale and the name of the purchaser.

(8) A purchaser of shares under this section has the same rights and is under the same obligations as if he had purchased the shares from the debtor at the time of the service of notice under subsection (2).

(9) Nothing in this Act affects any remedy that the execution creditor might, without this Act, have had against any share or the dividends, premiums, bonuses or other pecuniary profits in respect thereof; and subsections (2) to (8) apply to such remedy insofar as they can be applied thereto.

(10) Where a debtor owns shares in a private company and a sheriff seizes all or part of those shares, the sheriff shall first offer them for sale to the other shareholders in the private company, and send by mail to the company at its registered office and to the other shareholders of the company notice of the seizure and sell the shares seized or any part thereof to any shareholder who within thirty days after the date of the mailing of the notice:

(a) makes an offer for the purchase of the shares or part thereof at a price that appears to the sheriff to be reasonable; and

(b) pays the purchase price to the sheriff.

(11) Where under subsection (10):

(a) the sheriff does not receive any offer from the other shareholders in the private company;

(b) the offers received appear to the sheriff to be unreasonable; or

(c) none or only a part of the shares seized are sold;

the sheriff shall sell the shares or any part thereof that remains unsold in the same manner as any other personal property.

## SALE BY THE SHERIFF

**Notice of sale**

**18** No sale of personal property except grain seized under a writ of execution or process shall be made without the sale being advertised for at least ten days, by public notice thereof, describing the property to be sold, copies of which notice shall be posted in the offices of the local registrar and sheriff, and at least five public places in the locality where the property is to be sold and, at the discretion of the sheriff, inserted in short form in a newspaper published or circulating in the locality where the sale is to take place, but when the articles seized are of a perishable nature, or are of such a character as not to allow of a delay of ten days as hereinbefore provided, they may be sold forthwith.

R.S.S. 1978, c.E-12, s.18.

**Growing crops**

**19** No sale of growing crops, whether grain, or roots, shall take place until after they have been harvested and threshed, or taken and removed from the ground, when after all charges for harvesting, threshing, taking, and removing, have been paid, and all exemptions been claimed and reserved, the balance may be sold.

R.S.S. 1978, c.E-12, s.19.

**Sale of grain**

**20** Where the sheriff seizes grain under a writ of execution, or other process, against the goods of a member of a company or association established for the purpose of carrying on the business of buying, selling and marketing grain on the non-profit co-operative plan, which that member is under contract to deliver to the company or association, he shall sell the grain so seized through the company or association, and all moneys as and when received on account of the grain, shall be considered levies under *The Creditors' Relief Act*.

R.S.S. 1978, c.E-12, s.20.

**Sale of mortgage**

**21** If a mortgage of land, seized by the sheriff under a writ of execution against goods, is not paid or satisfied, nor the writ satisfied or withdrawn, within one year from the day on which the writ was delivered to him, the sheriff may, during the currency of the writ, sell the mortgage in the same manner as he sells lands under a writ of execution against lands, and sections 22 and 25 shall, so far as applicable and with the necessary modifications, apply to the sale.

R.S.S. 1978, c.E-12, s.21.

## EXECUTION AGAINST LANDS

**Issue of execution**

**22(1)** Where a writ of execution has been issued for goods only, a person may then issue the writ as well against the lands of the debtor in the province, provided that not less than \$100 inclusive of interest are or remain due and unpaid under the judgment, and may deliver the writ to the sheriff at the judicial centre named in the writ and charged with the execution against goods, at or after the time of delivery to the sheriff of the writ against goods, and either before or after any return thereof.

(2) Where a sheriff has in his or her hands any writ of execution then in force issued against lands of an execution debtor and the writ has been registered in the Saskatchewan Writ Registry and as an interest in the Land Titles Registry against a title or interest, the sheriff to whom the writ is directed for execution or the sheriff who becomes charged with the execution of the writ pursuant to subsection 25(3) may, subject to the other provisions of this Act, sell lands or interests that are held subject to a lien and charge created by the registration of an interest based on the writ of execution against the title or interest of the execution debtor pursuant to section 173 of *The Land Titles Act, 2000*.

(3) No lands of an execution debtor or lands that are held subject to a lien and charge created under section 173 of *The Land Titles Act, 2000* shall be sold by any sheriff pursuant to a writ of execution issued against lands within less than one year from the day on which the writ of execution is delivered to the sheriff to whom the writ of execution against lands is directed or, if more than one writ of execution affecting the lands has been delivered to that sheriff, within less than one year from the day on which the first of those writs was so delivered.

R.S.S. 1978, c.E-12, s.22; 1984-85-86, c.16, s.5;  
2000, c.L-5.1, s.247; 2001, c.20, s.27.

**Leave required for sale of lands, exception**

**23(1)** Subject to subsection (3) of section 22, no lands:

- (a) of an execution debtor; or
- (b) that is subject to a lien and charge registered pursuant to section 173 of *The Land Titles Act, 2000*;

shall be sold by the sheriff under a writ of execution against lands heretofore or hereafter issued except by leave of the Court of Queen's Bench upon application by the execution creditor under this section, and sections 3 and 4 of *The Land Contracts (Actions) Act* apply, *mutatis mutandis*, to any proceedings under this section.

(2) Where more than one execution creditor is named in a writ of execution against lands, the application for leave under subsection (1) shall be made by and in the name of, and supported by, all execution creditors named in the writ.

(3) Notwithstanding anything in this section, no order shall be made granting leave to sell lands under a writ or writs of execution where the amount owing under the judgment in respect of which the writ was issued, or where the aggregate amounts owing under two or more judgments in respect of which the writs were issued, is less than \$200 inclusive of interest, unless the court or judge is satisfied by affidavit or other evidence that special circumstances exist for granting the leave.

## EXECUTIONS

## c. E-12

(4) Subsection (1) does not apply where the execution debtor is a corporation or where a corporation is the owner of the land or is the registered owner of land that is subject to a lien and charge registered pursuant to section 173 of *The Land Titles Act, 2000*.

R.S.S. 1978, c.E-12, s.23; 1979-80, c.92, s.26;  
2000, c.L-5.1, s.248.

**Notice of sale**

**24(1)** No land shall be sold by a sheriff pursuant to a writ of execution issued against lands unless:

- (a) at least thirty days' notice of the sale is given by the sheriff by registered mail to:
  - (i) the execution debtor or the registered owner of the land, as the case requires; and
  - (ii) any other person appearing by the records of the Land Titles Registry to have an interest in the land subsequent to the writ of execution or the first writ of execution if there is more than one writ issued affecting the land;

addressed to the person to be given such notice at the address for service of the person in the records of the Land Titles Registry except where notice is dispensed with by an order of a judge on an application which may be made *ex parte*;

- (b) notice of the sale has been posted at least forty-five days before the date of the sale in a conspicuous place in the sheriff's office and in the office of the local registrar at the judicial centre nearest to which the land is situated; and
  - (c) notice of the sale is published once a week for four consecutive weeks in a newspaper published nearest to the land to be sold, the last of such publications being not less than ten days before the date of the sale.
- (2) Where more than one newspaper is published in the same locality the notice of sale may be published in any of the newspapers.
- (3) Notwithstanding anything in clause (c) of subsection (1) or in subsection (2), a court or judge may by an order made under section 23 or upon *ex parte* application therefore, upon being satisfied that there is a valid reason for so doing, designate another newspaper in which the notice of sale shall be published.
- (4) A notice sent by registered mail as required by this section shall be deemed to have been served on the third day after the date of the receipt by the postmaster for the envelope containing the notice.

R.S.S. 1978, c.E-12, s.24; 1979-80, c.92, s.26;  
1998, c.48, s.5; 2000, c.L-5.1, s.249.

**Return *nulla bona* before sale of lands**

**25(1)** No sale of lands shall be had under an execution until after a return of *nulla bona*, in whole or in part, in the same suit or matter by the same officer.

(2) A return of *nulla bona* may be made by a sheriff where he can find no goods of the execution debtor, in the area assigned to him pursuant to *The Court Officials Act, 1984*, liable to seizure by virtue of writs of execution.

(3) If the lands to be sold or any part thereof are or is situated nearer to any other judicial centre at which a sheriff is resident the sheriff charged with the execution of the writ may request the sheriff at such other judicial centre to execute the writ and shall advise that sheriff that there are no goods liable to seizure in the area for which he is responsible out of which he may realize on the execution or realize any balance remaining unpaid and in such case no sale of lands shall be made until after a return of *nulla bona* by the sheriff at the other judicial centre and that sheriff shall be charged with the execution of the writ against lands as well as goods.

**Adjournment of sale**

(4) Where there are no bidders, or no sufficient bid has been offered for the land to be sold as aforesaid, the sheriff may adjourn the sale from time to time, and a notice of the time and place of the adjourned sale shall be posted by him in a conspicuous place in the sheriff's and local registrar's offices respectively, which notice shall be sufficient.

R.S.S. 1978, c.E-12, s.25; 1984-85-86, c.2, s.3.

**Registration and renewal of writs**

**26(1)** The sheriff or other duly qualified officer, on the delivery to him or her hereafter of a writ of execution then in force affecting land, shall, if the writ has not already been registered in the Saskatchewan Writ Registry, register the writ in the Saskatchewan Writ Registry after the execution creditor named in the writ has paid the sheriff or other officer:

- (a) \$1; and
- (b) the amount of the Registrar of Titles' fee.

(2) After a writ of execution is registered in the Saskatchewan Writ Registry, during the period that the writ of execution is in force, the writ binds and forms a lien and charge on any future acquired titles or interests of the debtor in accordance with subsection (4).

(3) The sheriff shall, on the direction of the execution creditor, register an interest based on a writ of execution in the Land Titles Registry against any title owned or interest held by the execution debtor.

(4) After an interest based on a writ of execution is registered against a title or against another interest in the Land Titles Registry, during the period that the writ of execution is in force, the writ binds and forms a lien and charge on the parcel of land included in the title or on the supporting interest, including:

- (a) any title or interest held under joint tenancy until the joint tenancy is terminated by death; and
- (b) land declared by *The Exemptions Act* or Part V of *The Saskatchewan Farm Security Act* to be free from seizure by virtue of writs of execution.

## EXECUTIONS

c. E-12

(5) Nothing contained in subsection (4) authorizes the sheriff to sell any land declared by *The Exemptions Act* or Part V of *The Saskatchewan Farm Security Act* to be free from seizure by virtue of writs of execution.

(6) Every writ of execution issued on a judgment or order dated on or after September 1, 1942 must state the date of the judgment or order on which it is issued.

(7) Every writ mentioned in subsection (6) that is registered in the Saskatchewan Writ Registry, at the expiration of 10 years after the date of the judgment or order on which the writ was issued, ceases to bind or affect the land or any interest of the execution debtor.

(8) The period commencing on March 27, 1933 and ending on April 1, 1944 must not be included in calculating the 10-year period mentioned in subsection (7).

2000, c.L-5.1, s.250.

**Assignment of execution**

**27** If an execution is assigned, from the time of registration of the assignment in the Saskatchewan Writ Registry or the Personal Property Registry, the assignee has the same rights as those held at that time by the assignor.

2000, c.L-5.1, s.250.

**Satisfaction or withdrawal of writ**

**28** On the satisfaction or withdrawal of a writ that has been registered in the Saskatchewan Writ Registry or registered in accordance with section 11, the sheriff or other duly qualified officer shall submit an application for discharge of the writ to the Saskatchewan Writ Registry.

2000, c.L-5.1, s.250.

**Sheriff's transfer of unpatented land**

**29** In cases where the sheriff or other officer sells under execution land for which a title has not been granted, a transfer executed by him in the form prescribed for land for which a title has been granted shall be sufficient to convey the execution debtor's interest therein to the purchaser.

R.S.S. 1978, c.E-12, s.29; 2000, c.L-5.1,s.251.

**Judgment debts to carry interest**

**30** Every judgment debt shall carry interest at the rate of five per cent per annum from the time of entering the judgment until the judgment is satisfied, and interest at the same rate may be levied under a writ of execution on the judgment.

R.S.S. 1978, c.E-12, s.30.

## GENERAL PROVISIONS

**Registration of writ**

**31(1)** A writ of execution may be registered by the execution creditor or his solicitor in the Personal Property Registry by filing a financing statement in accordance with *The Personal Property Security Act, 1993* and the regulations under that Act, and Part IV and section 66 of that Act applies, *mutatis mutandis*, to a writ of execution registered in the registry.

(2) The Registrar of the Personal Property Registry shall register every writ of execution registered pursuant to subsection (1) in the Saskatchewan Writ Registry.

1979-80, c.24, s.5; 1993, c.P-6.2, s.75; 2000,  
c.L-5.1, s.252.

**Transitional, registration of writ**

**31.1** A sheriff may forward a certified copy of a writ of execution issued before May 1, 1981, together with all endorsements that were required on the writ pursuant to section 31, as it existed prior to May 1, 1981, to the Personal Property Registry, at any time on or after May 1, 1981, but not later than December 31, 1981, and any writ of execution so forwarded has a registration life at law equal to the time remaining in the life of the writ.

1980-81,c.55, s.4.

**Deemed registration in Personal Property Registry**

**31.2** Where a sheriff forwarded a writ of execution to the office of the registration clerk for the province at Regina pursuant to section 31 as it existed prior to May 1, 1981, or pursuant to section 31.1, the writ of execution is deemed to be registered in the Personal Property Registry by the execution creditor, and such registration continues for the unexpired portion of the registration.

(2) Part IV and section 66 of *The Personal Property Security Act, 1993* and the regulations made under that Act apply to a writ of execution deemed to be registered in the Personal Property Registry pursuant to subsection (1).

1980-81,c.55, s.4; 1993, c.P-6.2, s.75.

**32 Repealed.** 1979-80, c.24, s.6.

**Writ may be sent to any sheriff**

**33** A person entitled to issue a writ of execution may upon the issue of the writ request that it be directed to any sheriff and may request the local registrar of the Court of Queen's Bench to send the writ to the sheriff to whom it is directed and upon payment to him of the prescribed fees the local registrar of the Court of Queen's Bench shall comply with the request.

R.S.S. 1978, c.E-12, s.33, 1979-80, c.92, s.26.



## EXECUTIONS

c. E-12

**Transfer of writ at request of execution creditor**

**34(1)** A person who has issued a writ of execution and who has caused it to be delivered to a sheriff may in writing request the sheriff to forward a certified copy of the writ to the sheriff at any other judicial centre.

(2) Upon receipt of such request the sheriff shall forward a certified copy of the writ and of all endorsements thereon to the sheriff designated in the request and the latter sheriff shall upon receipt of the certified copy be charged with the execution of the writ.

R.S.S. 1978, c.E-12, s.34.

**Transfer of writ by sheriff of his own motion**

**35** Subject to any directions by the Inspector of Legal Offices, the sheriff to whom a writ of execution has been delivered may at any time forward a certified copy of the writ and of all endorsements thereon to any other sheriff who, in his opinion, is more conveniently located to realize on the writ and where he does so he shall notify the execution creditor or his solicitors of such action and such other sheriff shall be charged with the execution of the writ.

R.S.S. 1978, c.E-12, s.35; 2000, c.L-5.1, s.253.

## EXECUTION ON JUDGMENT OBTAINED UPON A JUDGMENT

**Priority of old writ retained by new writ in certain case**

**36(1)** Notwithstanding anything in this Act or *The Land Titles Act, 2000*, where action is brought on a judgment or order of a court in Saskatchewan for the payment of money and:

- (a) a writ of execution, issued on the judgment or order, is in force at the time judgment is entered in the action; and
- (b) before the writ mentioned in clause (a) expires by effluxion of time, a writ of execution is issued on the new judgment and is delivered to the sheriff and, if the writ affects lands, the writ is registered in the Saskatchewan Writ Registry;

then the writ mentioned in clause (a) shall, notwithstanding the entry of judgment, be deemed to have continued and to be in force until delivery to the sheriff of the writ issued on the new judgment and, if both writs affect lands, until registration in the Saskatchewan Writ Registry of the writ issued on the new judgment; and the last mentioned writ shall have the same priority or priorities as the writ mentioned in clause (a).

(2) The priority or priorities provided by subsection (1) shall, with respect to any costs of the action upon the judgment or order, extend only to the taxable costs of obtaining the judgment by default; and the writ issued on the new judgment shall show the amount of the taxed costs of the said action.

(3) The writ of execution issued on the new judgment must contain a statement to the following effect:

“This writ of execution is issued on a judgment obtained in an action on a former judgment, and if the writ is delivered to the sheriff or if the writ, if it affects land, is registered in the Saskatchewan Writ Registry, before the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, (fill in the date of expiry by passage of time of the writ mentioned in clause 36(1)(a) of *The Executions Act*), the writ shall have the priority or priorities provided by section 36 of *The Executions Act*”.

(4) Upon delivery to the sheriff of the writ issued on the new judgment before the date mentioned in the statement provided for in subsection (3), he shall endorse upon it and enter in the execution docket a memorandum as follows:

“Substituted for prior writ of execution dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_”. (*Fill in the date of the prior writ*).

(5) A writ of execution issued on a new judgment and endorsed by the sheriff in accordance with this section may be submitted for registration in the Saskatchewan Writ Registry as a renewal or amendment of the writ mentioned in clause (1)(a).

R.S.S. 1978, c.E-12, s.36; 2000, c.L-5.1, s.254.

#### WITHDRAWAL BY SHERIFF FROM POSSESSION OF PROPERTY SEIZED

##### Protection order

**37(1)** Where a claim is made to or in respect of property taken in execution by a sheriff or to the proceeds or value of such property, and the execution creditor has given notice to the sheriff that he admits the claim, the sheriff may thereupon withdraw from possession, and may apply in chambers for an order protecting him from any action in respect of the seizure and possession of the property, and the judge may make such order as he deems just.

(2) The claimant shall be given notice of an application under subsection (1) and may attend the hearing, and if he attends the judge may, in and for the purposes of the application, make such orders as to costs as he deems just.

R.S.S. 1978, c.E-12, s.37.