

## **SCHEDULE 1**

### **SUMMARY CAUSE RULES 2002**

#### **CHAPTER 31**

##### ***Action of sequestration for rent***

###### **General**

**31.1.** An action of sequestration for rent or in security of rent may be brought as a summary cause whether it be brought before or after the term of payment.

###### **Appraisal inventory and execution of citation**

**31.2.—**(1) The sheriff officer when he executes the warrant for sequestration shall have the effects appraised by one person who may also be a witness to the sequestration.

(2) A notice in accordance with Form 4a and an inventory or list of sequestered effects with the appraisal in accordance with Part 1 of Form 4b shall be given to or left for the tenant who shall be cited thereafter in accordance with Chapter 5.

(3) After executing the sequestration the sheriff officer shall—

- (a) prepare and sign the certificate of execution of sequestration contained in Part 2 of Form 4b; and
- (b) return Form 4b (including the inventory and appraisal in Part 1) to the sheriff clerk within seven days of execution of the sequestration.

###### **Procedure**

**31.3.—**(1) After hearing the cause the sheriff shall dispose of it as he thinks fit and may either recall the sequestration in whole or in part, or grant decree for the rent found due and grant warrant for the sale of the sequestered effects.

(2) Where warrant for sale of the sequestered effects has been granted the sale shall be carried out by an officer of court or by such other person as the sheriff may direct by public roup at such place as the sheriff may direct and after—

- (a) advertisement in a newspaper circulating in the district; and
- (b) display, until the sale has been concluded, of a copy of the warrant on the walls of the court which granted it.

(3) Any proceeds of the sale surplus to the sum decerned for, the expenses awarded and the expenses of the sale, shall be returned to the owner, or if he cannot be found, consigned in the hands of the sheriff clerk.

(4) If the effects are not sold, they shall be delivered to the creditor at the appraised value to the amount of the sum decerned for and expenses, and the expenses of the sequestration and sale.

###### **Sale to be reported within 14 days**

**31.4.** A report of the proceedings in the sequestration and sale of proceeds, or of delivery of the effects, shall be made by the officer to the sheriff clerk within 14 days of the date of sale or delivery.

###### **Recall of sequestration**

**31.5.** If the tenant—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) pays to the landlord the rent due, with the expenses of raising the summons and sequestrating; or
- (b) consigns the rent due, with a sum determined by the sheriff clerk to cover expenses, in the hands of the sheriff clerk,

the sheriff clerk shall recall the sequestration by appropriately endorsing the summons or the defender's copy thereof.

**Warrant to eject and re-let where premises displenished**

**31.6.**—(1) If the officer who has executed a warrant for sale, or who was instructed to execute such a warrant, reports to the court that the premises are displenished the landlord may apply to the court to obtain a warrant to cite the defender to a fixed diet at which the sheriff may make such order as appropriate.

(2) Where a warrant to re-let is granted the rent accruing thereafter shall only be exigible for such period as the tenant continues to occupy the premises.

**Warrant to sequestrate, etc.**

**31.7.** All warrants to sequestrate, inventory, sell, eject or re-let shall be deemed to include authority, if need be, to open shut and lockfast places for the purpose of carrying such warrants into execution.