
STATUTORY INSTRUMENTS

1988 No. 2013

**Act of Sederunt (Proceedings in the Sheriff Court
under the Debtors (Scotland) Act 1987) 1988**

PART III

POINDINGS AND WARRANT SALES

Applications for releasing poinded articles

8.—(1) An application under section 16(4) of, or paragraph 1(4) of Schedule 5 to, the Act for an order that an article be released from a poinding shall be made within 14 days after the date of execution of the poinding and shall be in form 4.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the person to whom the sheriff clerk will require to intimate the application under paragraph (3)(c) of this rule;
- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the poinding proceeded;
- (c) the date and place of execution of the poinding;
- (d) the poinded article sought to be released;
- (e) the reasons for seeking release of the poinded article; and
- (f) any competent crave for expenses.

(3) On the lodging of such an application the sheriff clerk shall —

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to —
 - (i) the applicant, the creditor and the officer of court who executed the poinding; and
 - (ii) as appropriate, the debtor, any person whom the applicant informs the sheriff clerk claims to own the poinded article in common with the debtor and any person having possession of the poinded article; and
- (d) complete a certificate of intimation.

(4) The officer of court who executed the poinding shall, whether or not he appears to oppose the application, lodge with the court a copy of the poinding schedule before the date fixed for hearing under paragraph (3)(a) of this rule.

(5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

(6) This rule shall apply to the release of an article from arrestment (other than an arrestment of a debtor's earnings in the hands of his employer), or from a sequestration for rent under a landlord's right of hypothec, as it applies to the release of an article from poiding.

Applications for extension of hours of poiding

9.—(1) An application by an officer of court under section 17(2) of, or paragraph 2(2) of Schedule 5 to, the Act⁽¹⁾ (extension of hours of poiding) shall be made by endorsing a minute on the extract decree, summary warrant, or other document, upon which the poiding has proceeded.

(2) A minute under paragraph (1) of this rule shall specify—

- (a) the extension sought; and
- (b) the reason for the extension.

(3) A minute under paragraph (1) of this rule shall not be required to be intimated to any party and the sheriff may grant or refuse it without a hearing.

(4) The terms of the sheriff's decision on an application under this rule shall be endorsed on the extract decree, summary warrant or other document, as the case may be, and may be authenticated by the sheriff clerk.

Access to premises

10.—(1) An application by an officer of court under section 18(2) of, or paragraph 3(2) of Schedule 5 to, the Act to dispense with service of a notice of entry shall be made by endorsing a minute on the extract decree, summary warrant, or other document, upon which the poiding has proceeded.

(2) A minute under paragraph (1) of this rule shall specify the reason why notice might prejudice the execution of the poiding.

(3) A minute under paragraph (1) of this rule shall not be required to be intimated to any party and the sheriff may grant or refuse it without a hearing.

(4) The terms of the sheriff's decision on an application under this rule shall be endorsed on the extract decree, summary warrant or other document, as the case may be, and may be authenticated by the sheriff clerk.

Poiding schedule

11. A poiding schedule under section 20(5) of, or paragraph 5(5) of Schedule 5 to, the Act shall be in form 5.

Applications for security of poided articles

12.—(1) An application for an order under section 21(1)(a) of, or paragraph 6(1)(a) of Schedule 5 to, the Act for the security of a poided article shall be in form 6.

(2) The sheriff shall, on the lodging of an application under paragraph (1) of this rule, decide upon the further procedure in respect of it as he may consider appropriate, and may dispose of it without intimation to any party or without a hearing.

(3) Where the sheriff considers it appropriate, a date for a hearing of an application under paragraph (1) of this rule shall be fixed; and the sheriff clerk shall intimate a copy of the application together with a warrant for intimation to the applicant and as appropriate to the debtor, the creditor

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and the officer of court who executed the pouncing, and shall thereafter complete a certificate of intimation.

(4) Where a hearing has been fixed under paragraph (3) of this rule, the officer of court who executed the pouncing shall lodge with the court a copy of the pouncing schedule before the date of the hearing.

(5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Applications for immediate disposal of pounded articles

13.—(1) An application for an order under section 21(1)(b) of, or paragraph 6(1)(b) of Schedule 5 to, the Act for immediate disposal of a pounded article shall be in form 7.

(2) In the case of an application by the debtor under paragraph (1) of this rule, intimation to the creditor or the officer of court as required by section 21(2)(b) of, or paragraph 6(2)(b) of Schedule 5 to, the Act shall be made by the sheriff clerk.

(3) On being satisfied that such an application has been intimated as required by section 21(2) of, or paragraph 6(2) of Schedule 5 to, the Act the sheriff shall determine the further procedure in respect of the application as he considers appropriate.

Receipt of redemption of pounded articles

14. A receipt granted by an officer of court for payment in respect of a pounded article redeemed under section 21(4) of, or paragraph 6(4) of Schedule 5 to, the Act shall be in form 8.

Reports of execution of pouncings

15.—(1) A report under section 22(1) of the Act by an officer of court of the execution of a pouncing shall be in form 9 and shall state—

- (a) the court which granted the original decree and the date of that decree, or details of the document upon which the pouncing proceeded, and the date of any charge;
- (b) that he did, before executing the pouncing—
 - (i) exhibit to any person present the warrant to pound and the certificate of execution of charge;
 - (ii) demand payment of the sum recoverable from the debtor, if he was present, or any person present appearing to the officer to be authorised to act for the debtor; and
 - (iii) make enquiry of any person present as to the ownership of the articles proposed to be pounded, and in particular whether there were any persons who own any article in common with the debtor;
- (c) if appropriate, that he informed the debtor of his right to redeem pounded articles, and whether any articles have been redeemed;
- (d) if appropriate, that he informed any person present who owns any pounded article in common with the debtor of his right to redeem pounded articles;
- (e) if appropriate, that he informed the debtor and any person present who owns any pounded article in common with the debtor, or who is in possession of the pounded article, of his right to apply for an order releasing articles from pouncing under section 16(4), 23(1) or 41(3)(b) of the Act;
- (f) whether he has carried out any of the actions mentioned in section 20(7) of the Act;
- (g) the articles pounded and their respective values;

- (h) the sum due by the debtor, including the fees, mileage charges or outlays which have been incurred in serving the charge and executing the pointing, and the amount of each; and
 - (i) in the case of a further or second pointing, the circumstances justifying the pointing.
- (2) A report to which paragraph (1) of this rule applies shall be retained by the sheriff clerk.
- (3) An application by an officer of court under section 22(1) of the Act to extend the time for lodging a report shall be made by endorsing a minute to that effect on the extract decree or other document upon which the pointing has proceeded stating the reasons for seeking the extension; and the terms of the sheriff's decision shall be endorsed on the extract decree or other document, as the case may be, and may be authenticated by the sheriff clerk.

Release of pointed articles on ground of undue harshness

16.—(1) An application by a debtor or person in possession of a pointed article for an order under section 23(1) of, or paragraph 7(1) of Schedule 5 to, the Act for release of an article from pointing on the ground of undue harshness shall be made in form 10 within 14 days after the date of the execution of the pointing.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the persons to whom the sheriff clerk will require to intimate the application under paragraph (3)(c) of this rule;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pointing proceeded;
 - (c) the date and place of the execution of the pointing;
 - (d) the pointed article sought to be released;
 - (e) the reasons for seeking release of the pointed article; and
 - (f) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall —
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor, the officer of court who executed the pointing and, as appropriate, the debtor or any person having possession of the pointed article; and
 - (d) complete a certificate of intimation.

(4) The officer of court who executed the pointing shall, whether or not he appears to oppose the application, lodge with the court a copy of the pointing schedule before the date fixed for hearing under paragraph (3)(a) of this rule.

(5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

(6) Where an application to which paragraph (1) of this rule applies has been granted by the sheriff, an application under section 23(2) of, or paragraph 7(2) of Schedule 5 to, the Act (pointing of other articles belonging to debtor on the same premises) may be made by the creditor or the officer of court—

- (a) orally at the time of granting of the application for release of an article; or
- (b) endorsing a minute on the order granted.

(7) This rule shall apply to the release of an article from a sequestration for rent under a landlord's right of hypothec as it applies to the release of an article from pointing.

Invalidity, cessation and recall of poidings

17.—(1) An application by a debtor—

- (a) for an order under section 24(1) of, or paragraph 8(1) of Schedule 5 to, the Act (poiding invalid or has ceased to have effect); or
- (b) for recall of a poiding under section 24(3) of, or paragraph 8(3) of Schedule 5 to, the Act (undue harshness; aggregate value of articles low; aggregate proceeds of sale would not exceed expenses),

shall be in form 11.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the creditor, the officer of court who executed the poiding and any other person having an interest;
- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the poiding proceeded;
- (c) the date and place of execution of the poiding;
- (d) the reasons for the application and the order sought; and
- (e) if appropriate, any competent crave for expenses.

(3) On the lodging of such an application the sheriff clerk shall—

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the applicant, the creditor and any other party having an interest;
- (d) intimate the application to the officer of court who executed the poiding with an order that he deliver to the court before the date fixed for the hearing a copy of the poiding schedule; and
- (e) complete a certificate of intimation.

(4) The sheriff clerk shall intimate the sheriffs decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined

Sist of proceedings in poiding of mobile homes

18.—(1) An application by a debtor, or another person, whose only or principal residence is a caravan, houseboat or other moveable structure under section 26(1) of, or paragraph 10(1) of Schedule 5 to, the Act for an order that no further steps be taken in the poiding of such residence shall be in form 12.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of, the debtor or other person whose only or principal residence is the subject of the poiding, the creditor and the officer of court who executed the poiding;
- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which poiding proceeded;
- (c) the date and place of execution of the poiding; and
- (d) any competent crave for expenses.

(3) On the lodging of such an application the sheriff clerk shall—

- (a) fix a date for a hearing;

- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the debtor, the creditor, the officer of court who executed the poinding and any person whose only or principal residence is the subject of the poinding; and
- (d) complete a certificate of intimation.

(4) The officer of court who executed the poinding shall, whether or not he appears to oppose the application, lodge with the court a copy of the poinding schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

(5) The sheriff clerk shall intimate the sheriffs decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

(6) This rule shall apply to the release of an article from a sequestration for rent under a landlord's right of hypothec as it applies to the release of an article from poinding.

Applications for extension of period of poindings

19.—(1) An application by a creditor or an officer of court under section 27(2) or (3) of, or paragraph 11(2) or (3) of Schedule 5 to, the Act for an extension of the duration of a poinding shall be in form 13.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the debtor, and where appropriate, the creditor and the officer of court who executed the poinding;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the poinding proceeded;
 - (c) the date and place of execution of the poinding;
 - (d) the period of extension sought;
 - (e) the reasons for making the application; and
 - (f) where appropriate, any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the debtor and, where appropriate, the officer of court who executed the poinding; and
 - (d) complete a certificate of intimation.

(4) The officer of court who executed the poinding shall lodge with the court a copy of the poinding schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

Applications for removal of poinded articles

20.—(1) An application by a debtor or the person in possession of poinded articles under section 28(1)(b) of, or paragraph 12(1)(b) of Schedule 5 to, the Act for authority to remove a poinded article shall be in form 14.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the creditor, the officer of court who executed the poinding and, as appropriate, the debtor or the person having possession of the poinded article;

- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pouncing proceeded;
 - (c) the date and place of execution of the pouncing;
 - (d) the pointed article to be removed and its present location;
 - (e) the reasons for seeking removal of the pointed article and the order sought; and
 - (f) any competent crave for expenses.
- (3) on the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor, the officer of court who executed the pouncing and, as appropriate, the debtor or any person having possession of the pointed article; and
 - (d) complete a certificate of intimation.
- (4) The officer of court who executed the pouncing shall, whether or not he appears to oppose the application, lodge with the court a copy of the pouncing schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.
- (5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Unauthorised removal of pointed articles

21.—(1) An application under section 28(4) of, or paragraph 12(4) of Schedule 5 to, the Act for an order for the restoration of a pointed article to the premises from which it was removed shall be in form 15.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the debtor, the officer of court who executed the pouncing and the person having possession of the pointed article;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pouncing proceeded;
 - (c) the date and place of execution of the pouncing;
 - (d) the article removed;
 - (e) the present whereabouts of the article, if known;
 - (f) the order sought; and
 - (g) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the officer of court who executed the pouncing, the debtor and, where his identity is known, the person in possession of the pointed article; and
 - (d) complete a certificate of intimation.
- (4) The officer of court who executed the pouncing shall lodge with the court a copy of the pouncing schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

(5) An application under section 28(5) of, or paragraph 12(5) of Schedule 5 to, the Act shall be made by motion at the hearing fixed under paragraph (3)(a) of this rule.

(6) Where the sheriff makes an order under section 28(4) of, or paragraph 12(4) of Schedule 5 to, the Act for restoration of a poinded article, the sheriff clerk shall serve a certified copy of the order on the person in possession of the article, if known, and shall complete a certificate of service and attach to it the form of application.

(7) Service in accordance with paragraph (6) of this rule shall be by recorded delivery post or by officer of court on payment of his fee by the applicant.

(8) Where an order under section 28(4)(a) of, or paragraph 12(4)(a) of Schedule 5 to, the Act for restoration of a poinded article has not been complied with, an application for a warrant under section 28(4)(b) of, or paragraph 12(4)(b) of Schedule 5 to, the Act may be made by endorsing a minute specifying the warrant craved on the form of application made under paragraph (1) of this rule.

(9) A minute under paragraph (8) of this rule shall be placed before the sheriff who may, where service of the order has been effected in accordance with paragraphs (6) and (7) of this rule, grant the warrant craved without further intimation, service or a hearing.

Poinded articles acquired for value without knowledge of poinding

22.—(1) Where, in an application to which rule 21 applies, the sheriff has made an order for restoration of a poinded article, an application under section 28(5)(b) or (c) of, or paragraph 12(5)(b) or (c) of Schedule 5 to, the Act to recall an order for restoration shall be in form 16.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the creditor, the debtor, any other person having an interest in the article known to him and the officer of court who executed the poinding;
- (b) the court which granted the order for restoration and the date of that order;
- (c) where known, the date and place of execution of the poinding;
- (d) a description of the article concerned, details of the circumstances of its acquisition for value and without knowledge of the poinding and the applicant's interest in it;
- (e) the order sought; and
- (f) any competent crave for expenses.

(3) On the lodging of such an application the sheriff clerk shall—

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the applicant, the creditor, the debtor, the officer of court who executed the poinding and any other person known to the applicant as having an interest in the article or whom the sheriff may name in the warrant; and
- (d) complete a certificate of intimation.

(4) The officer of court who executed the poinding shall lodge with the court a copy of the poinding schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

(5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Further pointing in same premises

23.—(1) An application under section 28(6) of, or paragraph 12(6) of Schedule 5 to, the Act for authority to point another article in premises from which a pointed article has been removed shall be made—

- (a) by oral motion in proceedings relating to the pointing; or
- (b) in form 17.

(2) Where an application is made in accordance with paragraph (1)(b) of this rule, the application shall specify—

- (a) the name and address of the debtor;
- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pointing proceeded;
- (c) the date and place of execution of the pointing;
- (d) the grounds for the application including reasons for alleging that the debtor is at fault; and
- (e) any competent crave for expenses.

(3) On the lodging of an application in accordance with paragraph (1)(b) of this rule, the sheriff clerk shall—

- (a) fix a date for a hearing;
- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the debtor and the applicant; and
- (d) complete a certificate of intimation.

(4) The officer of court who executed the pointing shall lodge with the court a copy of the pointing schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

(5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Damage or destruction of pointed articles

24.—(1) An application under Section 29(2) of, or paragraph 13(2) of Schedule 5 to, the Act for authority to point another article where a pointed article has been damaged or destroyed or to revalue damaged articles shall be in form 18.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the debtor;
- (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pointing proceeded;
- (c) the date and place of execution of the pointing;
- (d) the pointed article alleged to have been damaged or destroyed;
- (e) where appropriate, the reasons for alleging that the debtor is at fault;
- (f) where appropriate, the alleged reduction in value;
- (g) the order sought; and
- (h) any competent crave for expenses.

(3) On the lodging of such an application the sheriff clerk shall—

- (a) fix a date for a hearing;

- (b) obtain from the sheriff a warrant for intimation;
- (c) intimate the application and warrant to the applicant, the debtor, the officer of court who executed the pouncing and any other party whom the sheriff may name in the warrant; and
- (d) complete a certificate of intimation.

(4) The officer of court who executed the pouncing shall lodge with the court a copy of the pouncing schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

(5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Applications for consignment by third party

25.—(1) An application under section 29(3) of, or paragraph 13(3) of Schedule 5 to, the Act for an order against a third party to consign a sum of money shall be in form 19.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the creditor, the debtor, the person in respect of whom an order for consignment is sought and the officer of court who executed the pouncing;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pouncing proceeded;
 - (c) the date and place of execution of the pouncing;
 - (d) the article damaged, destroyed, lost, stolen or sold;
 - (e) details of the sum for which consignment is sought; and
 - (f) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the officer of court who executed the pouncing, the person in respect of whom an order for consignment is sought and, as appropriate, the debtor or creditor; and
 - (d) complete a certificate of intimation.

(4) The officer of court who executed the pouncing shall lodge with the court a copy of the pouncing schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.

(5) Where an application under paragraph (1) of this rule is granted, the sheriff clerk shall serve a certified copy of the sheriff's order upon the person concerned and shall complete a certificate of service.

(6) Service under paragraph (5) of this rule shall be by recorded delivery post or by officer of court on payment of his fee by the applicant.

Applications for warrants of sale

26.—(1) An application by a creditor or officer of court under section 30(1) of the Act for a warrant of sale shall be in form 20.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the applicant, the creditor, any person in possession of the pointed article, the debtor and the auctioneer or officer of court or other person who is to conduct the sale;

- (b) the date of the report of execution of pointing to the sheriff;
 - (c) the name and address of the officer of court who will make the arrangements for the sale in accordance with the warrant;
 - (d) the intended location of the sale;
 - (e) the applicant's proposals for public notice of the sale where it will not be held in an auction room;
 - (f) the applicant's proposals for the period within which the sale is intended to take place; and
 - (g) any release or redemption of a pointed article.
- (3) There shall be produced with such an application—
- (a) where the sale is to be held in a dwellinghouse, the consent of the occupier, and, if he is not the occupier, of the debtor, to the sale being held in a dwellinghouse; or
 - (b) where the sale is to be held in premises other than a dwellinghouse or auction room, the consent of the occupier of the premises.
- (4) No warrant for service of such an application shall be required.
- (5) The notice to be served by the creditor or officer of court under section 30(3) of the Act shall be in form 21.
- (6) The creditor or officer of court shall serve on the debtor a copy of any consents referred to in rule 27 with a copy application and notice under this rule.
- (7) Service of the copy application and notice under this rule shall be by recorded delivery post or by officer of court; and the applicant shall thereafter complete an execution of service.
- (8) A debtor may object to an application to which paragraph (1) of this rule applies by—
- (a) completing and returning the appropriate portion of form 21 to; or
 - (b) lodging written objections with,
- the sheriff clerk, within 14 days after the date of making of the application.
- (9) Where a debtor lodges an objection under paragraph (8) of this rule, the sheriff clerk shall fix a date for a hearing and intimate it to the parties.
- (10) Subject to section 30(4) of the Act, if no objection to an application under paragraph (1) of this rule is lodged, the sheriff may dispose of the application without a hearing.

Location of sales

27.—(1) The forms of consent, required under section 32(1) and (4) of, or paragraph 14(2) and (3) of Schedule 5 to, the Act, to a warrant sale being held in a dwellinghouse or in premises other than a dwellinghouse or an auction room, shall be in form 22.

(2) An application under paragraph 14(4) of Schedule 5 to the Act by the creditor or officer of court for an order that a warrant sale be held in the premises where the pointed article is situated shall be made in Writing and may be determined by the sheriff after such procedure as appears to him appropriate.

Receipts for redemption of pointed articles after application for warrant of sale

28. A receipt granted by an officer of court on the redemption by the debtor of a pointed article under section 33(2) of, or paragraph 15(2) of Schedule 5 to, the Act shall be in form 23.

Intimation and publication of warrants of sale

29.—(1) A copy of every warrant of sale granted under section 30(1), or a variation of a warrant of sale under Section 35(1) or 36(3)(b), of the Act shall be displayed on the walls of the court which granted it until the sale has been concluded.

(2) In the case of a sale of a pointed article which proceeds upon a summary warrant, the particulars to be sent to the sheriff clerk by the officer of court under paragraph 16(2) of Schedule 5 to the Act, shall be—

- (a) the name and address of the debtor, the creditor and the officer of court who is making the arrangements for the sale; and
- (b) the date, time and place of the sale.

Alteration of arrangements for warrant sales

30.—(1) An application under section 35(1) or 36(3)(b) of the Act for variation of a warrant of sale shall be in form 24.

(2) An application to which paragraph (1) of this rule applies shall specify—

- (a) the name and address of the applicant, the creditor, the debtor, any person in possession of the pointed article, and the auctioneer or officer of court who is to conduct the sale;
- (b) the date of the original warrant of sale;
- (c) details of any steps of diligence taken;
- (d) the applicant's proposals for variation and his reasons for seeking such variation;
- (e) any release or redemption of a pointed article;
- (f) details of any agreement between creditor and debtor to pay the debt by instalments or otherwise and any breach of it;
- (g) details of any cancellation of warrant sale; and
- (h) any additional powers sought by the applicant in the event of the application being granted.

(3) There shall be produced with such an application the original warrant of sale.

(4) No warrant for service of such an application shall be required.

(5) The notice to be served by the creditor or officer of court under section 35(5)(a) of the Act(2) shall be in form 25.

(6) The creditor or officer of court shall, after effecting service, complete an execution of service and lodge the principal application and original warrant of sale with the sheriff clerk.

(7) Service of the copy application to which paragraph (1) applies may be by recorded delivery post or by officer of court.

(8) A debtor may object to an application to which paragraph (1) of this rule applies by—

- (a) completing and returning the appropriate part of form 25 to; or
- (b) lodging written objections with,

the sheriff clerk within 7 days after the date of service of the application.

(9) Where a debtor lodges an objection under paragraph (8), the sheriff clerk shall fix a date for a hearing and intimate it to the parties.

(10) Subject to section 35(6) of the Act, if no objection to an application under paragraph (1) of this rule is lodged, the sheriff may dispose of the application without a hearing.

Reports of warrant sales

31.—(1) A report of sale, under section 39(1) of, or paragraph 20(1) of Schedule 5 to, the Act shall be in form 26.

(2) A report of sale shall specify—

- (a) the name and address of the creditor, the debtor and any person, other than the debtor who had possession of the pointed article;
- (b) the date of the decree, summary warrant or other document, upon which the sale proceeded, the date of issue of any extract decree and the prior steps of diligence;
- (c) details of the warrant of sale and any variation of it;
- (d) any intimation, service and notices given by the officer of court in respect of the sale;
- (e) when and where the sale took place and the persons who arranged and conducted the sale;
- (f) the articles which have been sold and the amount for which they have been sold;
- (g) any articles which were not sold and whether their ownership passed to the creditor or reverted to the debtor;
- (h) the sum which was due by the debtor and the expenses chargeable against the debtor under Schedule 1 to the Act;
- (i) the amount of any surplus paid or to be consigned in court;
- (j) any balance of the debt due by the debtor;
- (k) any release or redemption of a pointed article whether or not otherwise reported to the court or specified in a warrant of sale or for variation of it; and
- (l) any article damaged, destroyed, lost or stolen, any sum consigned by a party in connection with it and any balance of that sum due to the creditor or debtor.

(3) There shall be lodged with the report of sale the extract decree or other document upon which diligence proceeded, the original warrant of sale and any variation of it, any executions or certificates of intimation, service, copies of public notices required by the Act or these rules and vouchers for relevant outlays.

Modification of sale balance and declaration that pointing and sale void

32.—(1) Where the sheriff, after the receipt of the auditor of court's report, considers—

- (a) that a balance due to or by the debtor should be modified; or
- (b) that the pointing and sale may be void,

he shall before making an order under section 39(5)(b) or (c) of the Act fix a date for a hearing and the sheriff clerk shall intimate such hearing to the creditor, the officer of court who prepared the report of sale, the debtor and any other person having or having had an interest in or possession of, the pointed article as the sheriff may specify.

(2) Where the sheriff has made an order modifying a sale balance or declaring a pointing and sale to be void, the sheriff clerk shall intimate that order and any consequential order of the sheriff to those persons to whom intimation was made under paragraph (1) of this rule.

Retention of reports of sales

33. A report of sale shall be retained by the sheriff clerk in accordance with section 39(8) of the Act for a period of five years from the date of its being lodged with the court.

Release from pouncing of articles belonging to third party

34.—(1) An application under section 40(2) of, or paragraph 21(2) of Schedule 5 to, the Act for release from pouncing of an article belonging to a third party shall be in form 27.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) where known, the name and address of the creditor, the debtor, the officer of court who executed the pouncing and any person other than the debtor having possession of the pounced article;
 - (b) where known, the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pouncing proceeded;
 - (c) the date and place of execution of pouncing;
 - (d) if appropriate, where and when the warrant sale is to be held;
 - (e) the article which is sought to be released; and
 - (f) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor, the debtor, the officer of court who executed the pouncing and any person having possession of the article; and
 - (d) complete a certificate of intimation.
- (4) The officer of court who executed the pouncing shall, whether or not he appears to oppose the application, lodge with the court a copy of the pouncing schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.
- (5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Release from pouncing of articles in common ownership

35.—(1) An application under section 41(3), or paragraph 22(3) of Schedule 5 to, the Act for release from pouncing of an article in common ownership shall be in form 28.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the creditor, the debtor, the officer of court who executed the pouncing, any person who owns or claims to own the article in common with the debtor and any person other than the debtor having possession of the pounced article;
 - (b) the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the pouncing proceeded;
 - (c) the date and place of execution of pouncing;
 - (d) if appropriate, where and when the warrant sale is to be held;
 - (e) the nature and extent of the applicant's ownership of the article;
 - (f) the nature and extent of the debtor's and any other person's ownership of the article;
 - (g) whether an undertaking has been or is made to pay a sum equal to the debtor's interest in the article;
 - (h) whether and, if so, why the continued pouncing or sale of the article would be unduly harsh to the applicant; and

- (i) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor, the debtor, the officer of court who executed the poinding, any person named in the application who owns or claims to own the article in common with the debtor and any person having possession of the poinded article; and
 - (d) complete a certificate of intimation.
- (4) The officer of court who executed the poinding shall, whether or not he appears to oppose the application, lodge with the court a copy of the poinding schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.
- (5) The sheriff clerk shall intimate the sheriff's decision in such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Applications for finding of common ownership of poinded article

36.—(1) An application under section 41(7)(b) of, or paragraph 22(6)(b) of Schedule 5 to, the Act for a finding that a poinded article is owned in common shall be in form 29.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the creditor, the debtor, the officer of court who executed the poinding and any person who owns or claims to own the article in common with the debtor;
 - (b) where known, the court which granted the original decree and the date of that decree, or details of the summary warrant or other document, upon which the poinding proceeded;
 - (c) the date and place of execution of poinding;
 - (d) if appropriate, where and when a warrant sale is to be held;
 - (e) the article in respect of which the application is made and the nature and extent of the applicant's ownership of it;
 - (f) the nature and extent of the debtor's and any other person's ownership of the article;
 - (g) the order sought; and
 - (h) any competent crave for expenses.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) fix a date for a hearing;
 - (b) obtain from the sheriff a warrant for intimation;
 - (c) intimate the application and warrant to the applicant, the creditor, the debtor, the officer of court who executed the poinding and any other person whom the sheriff clerk is informed by the applicant also owns or claims to own the article in common with the debtor;
 - (d) complete a certificate of intimation.
- (4) The officer of court who executed the poinding shall, whether or not he appears to oppose the application, lodge with the court a copy of the poinding schedule before the date fixed for the hearing under paragraph (3)(a) of this rule.
- (5) The sheriff clerk shall intimate the sheriff's decision on such an application to any person to whom intimation of the application was made but who was not present when the application was determined.

Conjoining of poidings

37.—(1) An application under section 43(1) of the Act for an order conjoining poidings shall be made by the creditor or officer of court who executed the later poiding endorsing a minute to that effect on the later report of poiding.

(2) A minute to which paragraph (1) of this rule applies shall specify—

- (a) that no warrant of sale has been granted in respect of either poiding;
- (b) the date of execution of each poiding;
- (c) whether any proceedings are subsisting in respect of the later poiding;
- (d) whether any proceedings in respect of the later poiding have been disposed of by the sheriff and whether and by whom any leave to appeal has been sought or appeal taken in respect of any such proceedings.