
STATUTORY INSTRUMENTS

1988 No. 2013

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

PART VI

MISCELLANEOUS

Representation

70. A party to any proceedings under the Act shall be entitled to be represented by a person other than an advocate or a solicitor if the sheriff is satisfied that such person is a suitable representative and is duly authorised to represent the party.

Powers of sheriff

71. Without prejudice to any other powers competent to him, the sheriff, in the exercise of the powers conferred on him by these rules, shall have the same powers as regards the summoning and examination of witnesses, the production of documents, the administration of oaths and the correcting of interlocutors as those which he has in an ordinary cause to which the Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(1) apply.

Appeals

72.—(1) An application for leave to appeal from a decision of the sheriff under the Act shall be made in writing to the sheriff clerk within 7 days of the making of the decision and shall specify the question of law upon which the appeal is to proceed.

(2) The sheriff may consider such an application without hearing parties unless it appears to him to be necessary to hold a hearing on the application in which case the sheriff clerk shall intimate the date, place and time of the hearing to the parties.

(3) Subject to section 103(2) of the Act, an appeal shall—

(a) be made by note of appeal written by the appellant on the written record containing the order appealed against or on a separate sheet lodged with the sheriff clerk;

(b) be as nearly as may be in the following terms—

“The applicant [*or respondent or other*] appeals to the sheriff principal/Court of Session”;

(c) be signed by the appellant or his representative and bear the date on which it is signed; and

(d) where appeal is made to the Court of Session, bear the name and address of the solicitors in Edinburgh who will be acting for the appellant.

(4) The appellant shall, at the same time as marking his appeal under paragraph (3) of this rule, intimate that he is doing so to the other parties.

(5) The sheriff shall, on an appeal being marked under paragraph (3) of this rule, state in writing the reasons for his original decision.

(6) Where an appeal is marked, the sheriff clerk shall transmit the process within 4 days to the sheriff principal or to the Deputy Principal Clerk of Session, as the case may be.

Intimation

73.—(1) A warrant for intimation referred to in these rules shall be in form 64.

(2) The sheriff may order intimation to persons other than those to whom intimation is required under these rules as he considers appropriate.

Hearings

74. At any hearing (other than the hearing of an appeal) fixed under these rules the cause to be dealt with may be—

- (a) determined;
- (b) continued for such further procedure as the sheriff considers appropriate; or
- (c) if no party appears, dismissed.

Dispensing power of sheriff

75. The sheriff may relieve any party from the consequences of any failure to comply with the provisions of these rules which is shown to be due to mistake, oversight or other cause, not being wilful non-observance of the same, on such terms and conditions as seem just; and in any such case the sheriff may make such order as seems just by way of extension of time, lodging or amendment of papers or otherwise so as to enable the cause to proceed as if such failure had not happened.