
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.

Status: This is the original version (as it was originally made).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

(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 poinding.