
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 313

Act of Sederunt (Sheriff Court Bankruptcy Rules) 2016

CHAPTER 11

MOTIONS

Interpretation

11.1. In this Chapter—

“lodging party” means the party lodging the motion;

“receiving party” means a party receiving the intimation of the motion from the lodging party.

Making of motions

11.2. A motion may be made—

(a) orally; or

(b) in writing, in accordance with rule 11.3.

Written motions

11.3.—(1) A motion in writing is made by lodging it with the sheriff clerk in accordance with rule 11.7(1).

(2) A motion in writing must specify the grounds on which it is made.

Intimation of written motions

11.4.—(1) The lodging party must give intimation of his or her intention to lodge the motion, and of the terms of the motion, to every other party in Form 11.4.

(2) That intimation must be accompanied by a copy of any document referred to in the motion.

Opposition to written motions

11.5.—(1) A receiving party may oppose a motion by lodging a notice of opposition in Form 11.5.

(2) Any notice of opposition must be lodged within 7 days after the date of intimation of the motion.

(3) The sheriff may, on the application of the lodging party—

(a) vary the period of 7 days mentioned in paragraph (2); or

(b) dispense with intimation on any party.

(4) An application mentioned in paragraph (3) must—

(a) be included in the motion;

(b) give reasons for varying the period or dispensing with intimation, as the case may be.

- (5) The sheriff may allow a notice of opposition to be lodged late, on cause shown.

Consent to written motions

11.6. Where a receiving party seeks to consent to a motion, that party may do so by lodging a notice to that effect.

Lodging of written motions

11.7.—(1) The motion must be lodged by the lodging party within 5 days after the date of intimation of the motion, unless paragraph (3) applies.

(2) The lodging party must also lodge—

- (a) a certificate of intimation in Form 5.7;
- (b) so far as practicable, any document referred to in the motion that has not already been lodged.

(3) Where the sheriff varies the period for lodging a notice of opposition to a period of 5 days or less, the motion must be lodged no later than the day on which that period expires.

Joint written motions

11.8.—(1) A joint motion by all parties need not be intimated.

(2) Such a motion is to be lodged by any of the parties.

Determination of unopposed written motions

11.9.—(1) The sheriff clerk may determine any unopposed motion in writing other than a motion which seeks a final interlocutor.

(2) Where the sheriff clerk considers that such a motion should not be granted, the sheriff clerk must refer the motion to the sheriff.

(3) The sheriff is to determine—

- (a) a motion referred under paragraph (2);
- (b) an unopposed motion which seeks a final interlocutor,

in chambers without the appearance of parties, unless the sheriff otherwise determines.

(4) The sheriff clerk must intimate to every party an interlocutor determining a joint written motion or an unopposed written motion.

Hearing of opposed written motions

11.10.—(1) Where a notice of opposition in Form 11.5 is lodged, the motion is to be heard by the sheriff on the first suitable court day after the lodging of the notice of opposition.

(2) The sheriff clerk must intimate the date and time of the hearing to the parties.