



Debtors (Scotland) Act 1987

1987 CHAPTER 18

PART II

POINDINGS AND WARRANT SALES

Poinding

24 Invalidity, cessation and recall of poinding.

- (1) If, at any time before the sale of the poinded articles, the sheriff is satisfied that the poinding is invalid or has ceased to have effect he shall, on his own initiative or on an application by the debtor, make an order declaring that to be the case, and may make such consequential order as appears to him to be necessary in the circumstances.
- (2) Without prejudice to section 16(4) of this Act, it shall not be competent for the sheriff to make an order under subsection (1) above on the ground that any poinded article is exempt from poinding under that section.
- (3) At any time before an application is made under section 30 of this Act for a warrant of sale, the sheriff may, on an application by the debtor, recall a poinding on any of the following grounds—
 - (a) that it would be unduly harsh in the circumstances for a warrant of sale of the poinded articles to be granted;
 - (b) that the aggregate of the values of the poinded articles fixed under section 20(4) of this Act was substantially below the aggregate of the prices which they would have been likely to fetch if sold on the open market; or
 - (c) that the likely aggregate proceeds of sale of the poinded articles would not exceed the expenses likely to be incurred in the application for warrant of sale and in any steps required to be taken under this Part of this Act in execution of such a warrant, on the assumption that that application and such steps are unopposed.
- (4) The sheriff shall not grant an application on the ground mentioned in subsection (3) (c) above if an order for further poinding of articles belonging to the debtor has been

Status: Point in time view as at 01/07/1997. This version of this provision has been superseded.

Changes to legislation: Debtors (Scotland) Act 1987, Section 24 is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

authorised under section 23(2), 28(6) or 29(2), or has become competent by reason of section 9(12), 28(2), 40(5) or 41(6), of this Act.

- (5) The sheriff shall not make an order under subsection (1) above, recall a poinding or refuse an application under this section without first giving the debtor and the creditor—
- (a) an opportunity to make representations; and
 - (b) if either party wishes to be heard, an opportunity to be heard.
- (6) The sheriff clerk shall intimate to the debtor any order made under subsection (1) above by the sheriff on his own initiative.

Status:

Point in time view as at 01/07/1997. This version of this provision has been superseded.

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