
STATUTORY INSTRUMENTS

1988 No. 2013 (S.192)

SHERIFF COURT, SCOTLAND

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

Made - - - - - *16th November 1988*

Coming into force - - - - - *30th November 1988*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Court (Scotland) Act 1971⁽¹⁾ section 97 of the Debtors (Scotland) Act 1987⁽²⁾ and of all other powers enabling them in that behalf, do hereby enact and declare:

PART I
INTRODUCTORY

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Proceedings in the Sheriff Court under the Debtors (Scotland) Act 1987) 1988 and shall come into force on 30th November 1988.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Interpretation

2. In this Act of Sederunt—

- (a) “the Act” means the Debtors (Scotland) Act 1987; and
- (b) a reference to a “form” means the form so numbered in the Schedule to this Act of Sederunt or a form substantially to the same effect with such variation as circumstances may require.

(1) 1971 c. 58
(2) 1987 c. 18

PART II

EXTENSION OF TIME TO PAY DEBTS AND RELATED MATTERS

Notice of interest claimed

3.—(1) A creditor wishing to recover interest under a decree of the sheriff court shall serve on the defender the notice referred to in sections 1(7) and 5(7) of the Act (notice claiming and specifying amount of interest), either by posting it by recorded delivery post or by having it served personally by an officer of court —

- (a) in the case of a decree requiring payment by instalments, no later than 14 days before the date on which the last instalment is due to be paid; or
- (b) in the case of a decree requiring payment by lump sum within a certain period, no later than 14 days before the last day of such period.

Applications for variation or recall of time to pay directions or for recall or restriction of arrestments

4.—(1) An application under section 3(1) of the Act for an order for variation or recall of a time to pay direction, or where appropriate, for recall or restriction of an arrestment, shall be in form 1.

(2) An application to which paragraph (1) of this rule applies shall be lodged with the sheriff clerk who shall—

- (a) fix a date for the hearing of the application (which date shall be not less than 7 days from the date of intimation made under sub-paragraph (c) of this paragraph);
- (b) obtain from the sheriff a warrant to intimate the application to the debtor and the creditor;
- (c) intimate the application and warrant to the debtor and the creditor; and
- (d) complete a certificate of intimation.

Applications for time to pay orders

5.—(1) A party who intends to apply for a time to pay order under section 5 of the Act shall complete and lodge with the sheriff clerk an application in form 2.

(2) An order by the sheriff under section 6(4) of the Act (creditor to furnish particulars of decree or other document) shall require a creditor to furnish the following information—

- (a) the date of the decree or other document;
- (b) the parties named in it;
- (c) where appropriate, the court which granted it;
- (d) details of the debt and any interest due; and
- (e) any further information, relating to the decree or other document, as the sheriff shall consider necessary to enable him to determine the application.

(3) Service by the sheriff clerk of an application under paragraph (1) of this rule, or of any *interim* order of the sheriff under section 6(3) of the Act, shall be by recorded delivery post and the sheriff clerk shall serve, in like manner and at the same time, a copy of any *interim* order upon the applicant.

(4) Where a creditor fails to comply with an order referred to in sub-paragraph (2) of this rule, any order giving him an opportunity to make representations under section 6(5) of the Act shall be intimated to him by the sheriff clerk.

(5) A creditor may, within 14 days after the date of service of an application under paragraph (1) of this rule, object to the granting of the application by lodging with the sheriff clerk the appropriate portion of form 2 or a letter specifying his objections, including any counter-proposals on it.

(6) If no written objections are received from the creditor within the time specified in paragraph (5) of this rule, the sheriff shall make a time to pay order in accordance with the application.

(7) If written objections are received from the creditor within the time specified in paragraph (5) of this rule, the sheriff clerk shall—

- (a) appoint a date for the hearing of the application;
- (b) intimate that date to the parties and a copy of the written objections to the applicant; and
- (c) advise the applicant that he may accept any counter-proposal prior to the date fixed for the hearing.

(8) Where the debtor accepts counter-proposals made by the creditor in accordance with paragraph (5) of this rule, he shall intimate his acceptance to the sheriff clerk who shall intimate the acceptance to the creditor and advise parties that the hearing of the application will not proceed; and the sheriff shall make a time to pay order in terms of the counter-proposals.

(9) The sheriff clerk shall intimate the decision of the sheriff on the application and any order relating to it to the parties by first class post and at the same time shall advise the creditor of the date when intimation was made to the debtor.

Applications for variation or recall of time to pay orders, poindings or arrestments.

6.—(1) An application under section 10(1) of the Act for an order for variation or recall of a time to pay order or, where appropriate, for recall of a poinding or for recall or restriction of an arrestment shall be in form 3.

(2) An application to which paragraph (1) of this rule applies shall be lodged with the sheriff clerk who shall—

- (a) fix a date for the hearing of the application (which date shall be not less than 7 days from the date of intimation made under sub-paragraph (c) of this paragraph);
- (b) obtain from the sheriff a warrant to intimate the application to the debtor and the creditor;
- (c) intimate the application and warrant to the debtor and the creditor; and
- (d) complete a certificate of intimation.

(3) The sheriff may, where he considers it appropriate, make an order requiring any person in possession of a summons or other writ or who holds an execution of diligence in respect of the debt to deliver it to the court.

Consumer Credit Act 1974

7.—(1) In any proceedings by a creditor or owner to enforce a regulated agreement or any related security within the meaning of the Consumer Credit Act 1974(3), the pursuer shall lodge a copy of any existing or previous time order relating to the debt.

(2) Where a time to pay order is applied for, the applicant shall specify in his application whether a time order, within the meaning of the Consumer Credit Act 1974, relating to the debt has been made.

(3) Where a time order is applied for under the Consumer Credit Act 1974, the applicant shall specify whether a time to pay direction or order relating to the debt has been made.

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 poinding.

Applications for extension of hours of poinding

9.—(1) An application by an officer of court under section 17(2) of, or paragraph 2(2) of Schedule 5 to, the Act (4) (extension of hours of poinding) shall be made by endorsing a minute on the extract decree, summary warrant, or other document, upon which the poinding 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 poinding has proceeded.

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

(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.

Poinding schedule

11. A poinding 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 poinded 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 poinded 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 and the officer of court who executed the poinding, 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 poinding shall lodge with the court a copy of the poinding 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 poinded 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 poinded 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 poinded articles

14. A receipt granted by an officer of court for payment in respect of a poinded 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 poindings

15.—(1) A report under section 22(1) of the Act by an officer of court of the execution of a poinding 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 poinding proceeded, and the date of any charge;
- (b) that he did, before executing the poinding—
 - (i) exhibit to any person present the warrant to poind 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 poinded, 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 poinded articles, and whether any articles have been redeemed;
- (d) if appropriate, that he informed any person present who owns any poinded article in common with the debtor of his right to redeem poinded articles;
- (e) if appropriate, that he informed the debtor and any person present who owns any poinded article in common with the debtor, or who is in possession of the poinded article, of his right to apply for an order releasing articles from poinding 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 poinded 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 poinding, and the amount of each; and
- (i) in the case of a further or second poinding, the circumstances justifying the poinding.

(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 poinding 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 poided articles on ground of undue harshness

16.—(1) An application by a debtor or person in possession of a poided 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 poiding on the ground of undue harshness shall be made in form 10 within 14 days after the date of the execution of the poiding.

- (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 poiding proceeded;
 - (c) the date and place of the execution of the poiding;
 - (d) the poided article sought to be released;
 - (e) the reasons for seeking release of the poided 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 poiding and, as appropriate, the debtor or any person having possession of the poided article; and
 - (d) complete a certificate of intimation.

(4) The officer of court who executed the poiding shall, whether or not he appears to oppose the application, lodge with the court a copy of the poiding 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 (poiding 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 poiding.

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 pouncing 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 pouncing proceeded;
 - (c) the date and place of execution of the pouncing;
 - (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 pouncing with an order that he deliver to the court before the date fixed for the hearing a copy of the pouncing schedule; and
 - (e) complete a certificate of intimation.
- (4) 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

Sist of proceedings in pouncing 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 pouncing 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 pouncing, the creditor 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 pouncing proceeded;
 - (c) the date and place of execution of the pouncing; 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 pouncing and any person whose only or principal residence is the subject of the pouncing; 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.

(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 pouncing.

Applications for extension of period of pouncings

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 pouncing 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 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 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 pouncing; 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.

Applications for removal of pounced articles

20.—(1) An application by a debtor or the person in possession of pounced articles under section 28(1)(b) of, or paragraph 12(1)(b) of Schedule 5 to, the Act for authority to remove a pounced 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 pouncing and, as appropriate, the debtor or the person 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 the pouncing;
- (d) the pounced article to be removed and its present location;
- (e) the reasons for seeking removal of the pounced 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 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 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 pointing 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 pointing proceeded;
 - (c) the date and place of execution of the pointing;
 - (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 pointing, 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 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) 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 pointed 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 pointed 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 poinding 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 poind another article in premises from which a poinded article has been removed shall be made—

- (a) by oral motion in proceedings relating to the poinding; 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 poinding 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 pointing 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 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.

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 pouncing 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 poided 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 poided articles after application for warrant of sale

28. A receipt granted by an officer of court on the redemption by the debtor of a poided 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 poided 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(5) 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 pointing 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 pointing 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 pointing and any person other than the debtor having possession of the pointed 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 pointing proceeded;
- (c) the date and place of execution of pointing;
- (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 pouncing, 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 pounced 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 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 poindings

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

(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 poinding;
- (b) the date of execution of each poinding;
- (c) whether any proceedings are subsisting in respect of the later poinding;
- (d) whether any proceedings in respect of the later poinding 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.

PART IV

DILIGENCE AGAINST EARNINGS

Earnings arrestment schedules

- 38.**—(1) An earnings arrestment schedule under section 47(2)(a) of the Act shall be in form 30.
- (2) An earnings arrestment schedule shall state—
- (a) the name, designation and address of the creditor, the debtor, the employer and any person residing in the United Kingdom to whom payment under the arrestment is to be made;
 - (b) the decree or other document constituting the debt and when, where and by whom it was granted or issued;
 - (c) the date on which any charge for payment was served; and
 - (d) the debt outstanding and the manner of its calculation.
- (3) There shall be attached to or reproduced upon the earnings arrestment schedule, and any copy intimated to the debtor, the terms of section 49(1) to (6) of, and Schedule 2 to, the Act.

Intimation of regulations made under section 49(7) of the Act

- 39.**—(1) The form of intimation to an employer under section 49(8) of the Act of regulations under Section 49(7) of the Act varying Tables A, B or C of Schedule 2 to the Act or the percentages specified in section 49(5) or (6)(a)(ii) of the Act shall be in form 31.
- (2) The form of intimation required under paragraph (1) of this rule shall specify—
- (a) the date of service of the earnings arrestment schedule;
 - (b) the name and address of the creditor, the debtor and the employer;
 - (c) that changes in the tables or percentages, as the case may be, have been made by regulations made by the Lord Advocate, the date when they were made and the date of their coming into force.
- (3) There shall be attached to or reproduced upon such a form of intimation the full text of the statutory deduction tables as varied by the regulations.

Applications for orders that earnings arrestments invalid etc.

- 40.**—(1) An application under section 50(1) of the Act for declarator that an earnings arrestment is invalid or has ceased to have effect shall be in form 32.
- (2) An application to which paragraph (1) of this rule applies shall state—
- (a) the name and address of the creditor, the debtor, the officer of court who served the earnings arrestment schedule and the person on whom the schedule was served;
 - (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 earnings arrestment proceeded;
 - (c) the date of service of the earnings arrestment schedule;
 - (d) the form of order sought;
 - (e) the reasons for the application; and
 - (f) any competent crave for expenses.
- (3) A copy of the earnings arrestment schedule shall, where practicable, be attached to such an application.
- (4) 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, as appropriate, the debtor or the person on whom the earnings arrestment schedule was served and
- (d) complete a certificate of intimation.

Determination of disputes as to operation of earnings arrestment

41.—(1) An application under section 50(3) of the Act for determination of any dispute as to the operation of an earnings arrestment shall be in form 33.

(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 served the earnings arrestment schedule and the employer;
- (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 earnings arrestment proceeded;
- (c) the date of service of the earnings arrestment schedule;
- (d) the subject matter of the dispute;
- (e) the form of order sought, including any sum sought to be reimbursed or paid;
- (f) any claim for interest and the date from which such interest should run; and
- (g) any competent crave for expenses.

(3) A copy of the earnings arrestment schedule shall, where practicable, be attached to such an application.

(4) 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 and, as appropriate, the creditor, the debtor and the employer; and
- (d) complete a certificate of intimation.

(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.

Current maintenance arrestment schedules

42.—(1) A current maintenance arrestment schedule under section 51(2)(a) of the Act shall be in form 34.

(2) A current maintenance schedule shall state—

- (a) the name, designation and address of the creditor, the debtor, the employee and any person residing in the United Kingdom to whom payment under the arrestment is to be made;
- (b) the maintenance order constituting the current maintenance, when and by whom it was granted or issued, and, where appropriate, details of its registration or confirmation;
- (c) the maintenance payable under the maintenance order by the debtor expressed as a daily rate;

- (d) where appropriate, the date of intimation made to the debtor under section 54(1) of the Act⁽⁶⁾ and particulars of default; and
 - (e) whether or not income tax falls to be deducted from the maintenance payable by the debtor.
- (3) There shall be attached to or reproduced upon the current maintenance schedule, and any copy intimated to the debtor, the terms of section 53(1) and (2) of the Act.

Intimation of regulations made under section 53(3) of the Act

43.—(1) The form of intimation to an employer under section 53(4) of the Act of regulations under section 53(3) of the Act varying the sum specified in section 53(2)(b) of the Act shall be in form 35.

- (2) The form of intimation required under paragraph (1) of these rules shall state—
 - (a) the date of service of the current maintenance arrestment schedule;
 - (b) the name and address of the creditor, the debtor and the employer; and
 - (c) the new sum which is applicable in accordance with regulations made by the Lord Advocate, the date when they were made and the date of their coming into force.

Intimation of changes in small maintenance payments limits

44.—(1) The form of intimation to an employer under section 53(5) of the Act of a change in the small maintenance payments limits shall be in form 36.

- (2) The form of intimation required under paragraph (1) of this rule shall specify—
 - (a) the date of service of the current maintenance arrestment schedule;
 - (b) the name and address of the creditor, the debtor and the employer; and
 - (c) that changes have been made to section 351(2) of the Income and Corporation Taxes Act 1988⁽⁷⁾, what these changes are and the date of their coming into force.

(3) There shall be attached to or reproduced upon such a form of intimation the full text of section 351(2) of the Income and Corporation Taxes Act 1988.

Intimation to debtors prior to service of current maintenance arrestments

45.—(1) Intimation to a debtor under a maintenance order required by section 54(1)(a) of the Act prior to service of a current maintenance arrestment shall be in form 37.

- (2) The form of intimation required under paragraph (1) of this rule shall state—
 - (a) the name and address of the debtor and the creditor;
 - (b) where appropriate, details of the making, registration or confirmation of the maintenance order; and
 - (c) that the debtor has been ordered to pay the sum of maintenance awarded and the consequences of his failure to do so.

(3) A copy of the relevant maintenance order shall be attached to such a form of intimation.

(4) The creditor shall, where the debtor resides in the United Kingdom, intimate to the debtor by posting such a form of intimation in a recorded delivery envelope addressed to him, and where the debtor resides outside the United Kingdom such intimation shall be by any other competent method of service.

(6) 1987 c. 18
(7) 1988 c. 1

(5) The creditor shall prepare and retain an execution of such a form of intimation while the current maintenance arrestment remains in force.

Applications for orders that current maintenance arrestments are invalid etc.

46.—(1) An application under section 55(1) of the Act for declarator that a current maintenance arrestment is invalid or has ceased to have effect shall be in form 38.

(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 served the current maintenance arrestment schedule and the person on whom the schedule was served;
- (b) the maintenance order and when, where and by whom it was granted or issued and, where appropriate, details of its registration or confirmation;
- (c) the date of service of the current maintenance arrestment schedule;
- (d) the reasons for seeking the order;
- (e) the form of order sought; and
- (f) any competent crave for expenses.

(3) A copy of the current maintenance arrestment schedule shall, where practicable, be attached to such an application.

(4) 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, as appropriate, the debtor or the person on whom the current maintenance arrestment schedule was served; and
- (d) complete a certificate of intimation.

Recall of current maintenance arrestments

47.—(1) An application under section 55(2) of the Act for recall of a current maintenance arrestment shall be in form 39.

(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 served the current maintenance arrestment schedule and the employer;
- (b) the maintenance order and when, where and by whom it was granted or issued and, where appropriate, details of its registration or confirmation;
- (c) the date of service of the current maintenance arrestment schedule;
- (d) such information as the applicant considers appropriate to satisfy the sheriff that he will not default again in paying maintenance;
- (e) the order sought; and
- (f) any competent crave for expenses.

(3) A copy of the current maintenance arrestment schedule shall, where practicable, be attached to such an application.

(4) 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 and the creditor; and
- (d) complete a certificate of intimation.

Determination of disputes as to operation of current maintenance arrestments

48.—(1) An application under section 55(5) of the Act for determination of any dispute as to the operation of a current maintenance arrestment shall be in form 40.

- (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 served the current maintenance arrestment schedule and the employer;
 - (b) the maintenance order and when, where and by whom it was granted or issued and, where appropriate, details of its registration or confirmation;
 - (c) the date of service of the current maintenance arrestment schedule;
 - (d) the subject matter of the dispute;
 - (e) the form of order sought, including any sum sought to be reimbursed or paid;
 - (f) any claim for interest and the date from which such interest should run; and
 - (g) any competent crave for expenses.

(3) A copy of the current maintenance arrestment schedule shall, where practicable, be attached to such an application.

- (4) 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 and, as appropriate, the creditor, the debtor and the employer; and
 - (d) complete a certificate of intimation.

Intimation by sheriff clerk where non-Scottish maintenance order ceases to have effect

49. Where a maintenance order pronounced outwith Scotland and registered in a sheriff court for enforcement in Scotland ceases to have effect because the debtor no longer resides in Scotland, the sheriff clerk of that court shall, so far as reasonably practicable, intimate those facts—

- (a) where a current maintenance arrestment is in force, to the person upon whom the current maintenance arrestment schedule was served; and
- (b) where a conjoined arrestment order is in force, to the sheriff clerk to whom payments require to be made by the employer in terms of such order.

Intimation by creditor under section 57(4) of the Act

50. Intimation by the creditor to an employer required by section 57(4) of the Act shall be in writing.

Applications by debtors for payment by creditors

51.—(1) An application under section 57(6) of the Act by a debtor for an order requiring a creditor to pay an amount not exceeding twice the amount recoverable by the debtor under section 57(5) of the Act shall be in form 41.

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

- (a) the name and address of the debtor, the creditor, the officer of court who served the arrestment and the employer;
 - (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 arrestment proceeded;
 - (c) the amount of the debt or the sum to be deducted from the debtor's earnings;
 - (d) where appropriate, the expenses of diligence;
 - (e) where appropriate, whether the debt recoverable under the earnings arrestment is paid or otherwise extinguished and, if so, from what date and in what circumstances;
 - (f) where appropriate, whether the current maintenance arrestment has ceased to have effect and, if so, from what date and in what circumstances;
 - (g) where appropriate, whether the debt being enforced by the earnings arrestment has ceased to be enforceable by diligence and, if so, from what date and in what circumstances;
 - (h) the calculation showing the sum alleged to have been received by the creditor in excess of entitlement;
 - (i) the sum sought from the creditor and the grounds for seeking such sum; and
 - (j) any competent crave for expenses.
- (3) A copy of the relevant arrestment schedule shall, where practicable, be attached to such an application.
- (4) 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 and to the creditor; and
 - (d) complete a certificate of intimation.
- (5) The sheriff clerk shall intimate the sheriff's decision in such an application to the creditor if the creditor was not present when the application was determined.

Applications by second creditors for information

52.—(1) An application by a second creditor under section 59(5) of the Act for an order to ordain an employer to give information relating to any other earnings arrestment or current maintenance arrestment to the second creditor shall be in form 42.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the applicant, the debtor, the employer and the officer of court who served the arrestment schedule in respect of the debt due to the applicant;
 - (b) the date of service of the applicant's earnings arrestment or current maintenance arrestment schedule;
 - (c) that the arrestment did not come into effect by virtue of section 59 of the Act;
 - (d) the information required by the applicant and which he alleges has not been provided by the employer;
 - (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 and the employer; and
 - (d) complete a certificate of intimation.
- (4) The sheriff clerk shall intimate the sheriff's decision in such an application to the employer if the employer was not present when the application was determined.

Applications for conjoined arrestment orders

53.—(1) An application under section 60(2) of the Act by a qualified creditor for a conjoined arrestment order shall be in form 43.

- (2) An application to which paragraph (1) of this rule applies shall specify—
 - (a) the name and address of the applicant, the debtor, the employer and any person residing in the United Kingdom to whom payment is to be made in respect of the applicant's debt;
 - (b) such information relating to the debt due to the applicant as would require to be specified in an earnings arrestment schedule or, as the case may be, a current maintenance arrestment schedule;
 - (c) in respect of each earnings arrestment or current maintenance arrestment already in effect against the debtor in the hands of the same employer—
 - (i) the name and address of the creditor;
 - (ii) the date and the place of the execution of such arrestments; and
 - (iii) the debt recoverable specified in the earnings arrestment schedule or, as the case may be, the daily rate of maintenance specified in the current maintenance Schedule; and
 - (d) the expenses of the application.
- (3) On the lodging of such an application the sheriff clerk shall—
 - (a) intimate the application, together with a form of notice and response in form 44, to the debtor and any other creditor of the debtor already enforcing a debt by an earnings arrestment or current maintenance arrestment in the hands of the same employer; and
 - (b) complete a certificate of intimation.
- (4) Where a creditor or the debtor intends to object to such an application, he shall complete and lodge with the sheriff clerk the form of notice and response in form 44 within 14 days after the date of intimation.
- (5) On receipt of such a form of notice and response the sheriff clerk shall fix a date for a hearing and intimate the date to the applicant and any person who received intimation of the application.
- (6) Where such a form of notice and response is not timeously lodged with the sheriff clerk, the sheriff may grant the application or may make such other order as he considers appropriate.

Conjoined arrestment orders

- 54.**—(1) A conjoined arrestment order shall be in form 45.
- (2) A conjoined arrestment order shall—
 - (a) specify any earnings arrestment or current maintenance arrestment in effect against the earnings of the debtor in the hands of the same employer;
 - (b) notify the employer that he must deduct a sum calculated in accordance with section 63 of the Act⁽⁸⁾ from the debtor's net earnings on any pay day and to pay the sum deducted to the sheriff clerk as soon as is reasonably practicable for so long as the order is in effect;

- (c) specify, as appropriate, the amount recoverable in respect of the debt or debts and the maintenance, expressed as a daily rate or aggregate of the daily rates;
 - (d) state the address of the sheriff clerk to whom payments are to be sent and, where appropriate, a court reference number; and
 - (e) if appropriate, include an award of expenses.
- (3) The sheriff clerk shall serve a copy of the conjoined arrestment order (or such final order of the sheriff in an application under rule 53 above) on the applicant, the employer, the debtor and the creditors in any earnings arrestment or current maintenance arrestment recalled by the order.
- (4) There shall be attached to or reproduced upon every copy conjoined arrestment order as served on any person the full text of section 63(1) to (6) of the Act.
- (5) There shall be enclosed with a conjoined arrestment order served on any person a notice in form 46 which shall require all creditors whose arrestments have been recalled to inform the sheriff clerk, within 14 days of the date of service of the notice, of the name and address of the person within the United Kingdom to whom payments should be made in respect of his debt.
- (6) Subject to paragraphs (7) and (8) of this rule, service under this rule shall be by recorded delivery post.
- (7) Where such service has been unsuccessful, reservice—
- (a) in the case of service on the employer, shall be effected by an officer of court on payment of his fee by the applicant; and
 - (b) in any other case of service on a person within the United Kingdom, shall be by ordinary first class post.
- (8) Service under this rule on a person outside the United Kingdom which cannot be effected by recorded delivery post shall be by any other competent method of service.

Applications by sheriff clerks for warrants for diligence

- 55.**—(1) An application by a sheriff clerk under section 60(9)(c) of the Act for a warrant for diligence against an employer for recovery of sums which are claimed to be due shall be in form 47.
- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the sheriff clerk, the employer, the debtor and the creditors under the conjoined arrestment order;
 - (b) the date of the conjoined arrestment order and details of its service on the employer;
 - (c) the sum claimed to be due by the employer and details of its calculation; and
 - (d) the circumstances in which the sum is said to be due and, if appropriate, any reasons given to the sheriff clerk for its not having been paid.
- (3) On preparing 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 employer, the debtor and the creditors under the conjoined arrestment order; and
 - (d) complete a certificate of intimation.

Applications by creditors for information under section 62 of the Act

56.—(1) An application by a creditor under section 62(4) of the Act for an order for information which an employer requires to provide in accordance with section 62(2) or (3) of the Act shall be in form 48.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the applicant, the debtor, the employer and the officer of court who served the arrestment schedule in respect of the debt due to the applicant;
 - (b) the date of service of the applicant’s earnings arrestment or current maintenance arrestment schedule;
 - (c) the reason for that arrestment not coming into effect or ceasing to have effect;
 - (d) the information required by the applicant and which he alleges has not been provided by the employer; and
 - (e) 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 and the employer; and
 - (d) complete a certificate of intimation.
- (4) The sheriff clerk shall intimate the sheriff’s decision on such an application to the employer if the employer was not present when the application was determined.

Application for variation of conjoined arrestment orders

57.—(1) An application under section 62(5) of the Act for variation of a conjoined arrestment order by a creditor whose debt is not being enforced under a conjoined arrestment order but would, but for the order, be entitled to enforce the debt by an earnings arrestment or current maintenance order shall be in form 49.

- (2) An application to which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the applicant, the debtor, the employer and any person residing in the United Kingdom to whom payment is to be made in respect of the applicant’s debt;
 - (b) the date of the conjoined arrestment order;
 - (c) such information relating to the debt due to the applicant as would require to be specified in an earnings arrestment schedule or, as the case may be, a current maintenance arrestment schedule; and
 - (d) the expenses of the application.
- (3) On the lodging of such an application the sheriff clerk shall—
- (a) intimate the application together with a form of notice and response in form 50 to the debtor and any creditor whose debt is being enforced under the conjoined arrestment order; and
 - (b) complete a certificate of intimation.
- (4) Where a creditor or the debtor wishes to object to such an application, he shall complete and lodge with the sheriff clerk the form of notice and response in form 50 within 14 days after the date of intimation.
- (5) On receipt of such a form of notice and response, the sheriff clerk shall fix a date for a hearing and intimate the date to the applicant and to those who received intimation of the application.

(6) Where such a form of notice and response is not timeously lodged with the sheriff clerk, the sheriff may grant the application or may make such other order as he considers appropriate.

(7) Where an application to which paragraph (1) of this rule applies has been granted, there shall be served by the sheriff clerk with the sheriff's decision—

- (a) a copy of the conjoined arrestment order as varied; and
- (b) a notice in form 51.

(8) Subject to paragraphs (9) and (10) of this rule, service under this rule and section 62(6) of the Act shall be by recorded delivery post.

(9) Where such service has been unsuccessful, reservice—

- (a) in the case of service on the employer, shall be effected by an officer of court on payment of his fee by the applicant; and
- (b) in any other case of service on a person within the United Kingdom, shall be by ordinary first class post.

(10) Service under this rule and section 62(6) of the Act on a person outside the United Kingdom which cannot be effected by recorded delivery post shall be by any other competent method of service.

Intimation of changes to calculation of sum payable by employer

58.—(1) Intimation by the sheriff clerk to an employer operating a conjoined arrestment order—

- (a) under section 63(7) of the Act, shall be in form 52; or
- (b) under section 63(8) of the Act, shall be in form 53.

(2) A form of intimation required under paragraph (1) of this rule shall state—

- (a) the date of the conjoined arrestment order and any variation of it and the date of service of it on the employer;
- (b) the name and address of the debtor, the employer and the sheriff clerk; and
- (c) that changes to—
 - (i) Tables A, B and C of Schedule 2 to the Act;
 - (ii) the percentages specified in section 49(5) and (6)(a)(ii) of the Act;
 - (iii) the sums specified in section 63(4)(b) of the Act; or
 - (iv) the small maintenance payments limits mentioned in section 65(1A) of the Income and Corporation Taxes Act 1970 have been made and the date when they were made and of their coming into force.

(3) There shall be attached to or reproduced upon form 52 the full text of the appropriate provisions of the Act.

(4) There shall be attached to or reproduced upon form 53 the full text of section 351(2) of the Income and Corporation Taxes Act 1988.

Determination of disputes as to operation of conjoined arrestment orders

59.—(1) An application under Section 65(1) of the Act for determination of any dispute as to the operation of a conjoined arrestment order shall be in form 54.

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

- (a) the name and address of the applicant, the debtor, the creditors whose debts are being enforced by the conjoined arrestment order, the employer and the sheriff clerk;

- (b) the date of the conjoined arrestment order and the court which made the order;
 - (c) the subject matter of the dispute;
 - (d) the order sought, including details of any sum for which reimbursement or repayment is sought;
 - (e) any claim for interest and the date from which such interest shall run; 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 and, as appropriate, the debtor, the creditors whose debts are being enforced by the conjoined arrestment order and the employer; and
 - (d) complete the certificate of intimation.
- (4) 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 payment by creditors to debtors

60.—(1) An application under section 65(7) of the Act for an order requiring the creditor to pay to the debtor a sum not exceeding twice the sum recoverable by the sheriff clerk in accordance with section 65(6) of the Act shall be in form 55.

- (2) An application in which paragraph (1) of this rule applies shall specify—
- (a) the name and address of the debtor and creditor;
 - (b) the date of the conjoined arrestment order and the court which made the order;
 - (c) whether, in the case of an ordinary debt, the debt has been paid, otherwise extinguished or has ceased to be enforceable by diligence and also why and from what date;
 - (d) whether, in the case of current maintenance, the obligation to pay maintenance has ceased or has ceased to be enforceable by diligence and if so why and from what date;
 - (e) the calculation showing the sum alleged to have been received by the creditor in excess of entitlement;
 - (f) the sum sought from the creditor;
 - (g) the applicant's grounds for seeking such sum;
 - (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 and the creditor; and
 - (d) complete a certificate of intimation.
- (4) The sheriff clerk shall intimate the sheriff's decision on such an application to the creditor if the creditor was not present when the application was determined.

Recall of conjoined arrestment orders under section 66(1)(a) of the Act

61.—(1) An application under section 66(1)(a) of the Act by a debtor, creditor, employer, sheriff clerk or interim, or permanent, trustee in the debtor's sequestration for recall of a conjoined arrestment order shall be in form 56.

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

- (a) the name and address of the debtor, the creditors whose debts are being enforced under the conjoined arrestment order, the person on whom a copy of the order or an order varying the order was served under section 60(7) or 62(6) of the Act, any trustee in the debtor's sequestration and the sheriff clerk to whom payment is made under the order;
- (b) the date of the conjoined arrestment order and the court which made the order;
- (c) if appropriate, that the conjoined arrestment order is invalid and why it is claimed to be invalid;
- (d) if appropriate, that all ordinary debts enforced by the order have been paid or otherwise extinguished or have ceased to be enforceable and in each case when and how this occurred;
- (e) if appropriate, that all obligations to pay current maintenance enforced by the order have ceased or have ceased to be enforceable by diligence and in either case when and how this occurred;
- (f) if appropriate, that the debtor's estate has been sequestrated and when this occurred;
- (g) the order sought and any consequential order; and
- (h) any competent crave for expenses.

(3) Subject to paragraph (4) of this rule, 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 and, as appropriate, the debtor, the creditors whose debts are being enforced under the order, the person on whom a copy of the order or an order varying the order was served under section 60(7) or 62(6) of the Act and the interim, or permanent, trustee in the debtor's sequestration; and
- (d) complete a certificate of intimation.

(4) Where such an application has been made by all of the creditors whose debts are being enforced by the conjoined arrestment order or where the sheriff clerk has previously received intimation from all of those creditors as to the matters referred to in section 66(1)(a)(ii) of the Act, the sheriff may grant the application without requiring intimation or any hearing of the application.

Recall of conjoined arrestment orders under section 66(1)(b) of the Act

62.—(1) An application under section 66(1)(b) of the Act by all creditors whose debts are being enforced for recall of a conjoined arrestment order shall be in form 57.

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

- (a) the names and addresses of the applicants and the debtors; and
- (b) the date of the conjoined arrestment order and the court which made the order;
- (c) the reasons for the application; and
- (d) any consequential order sought.

(3) On the lodging of such an application the sheriff may grant it immediately or may make such other order as he considers appropriate.

Applications for variation of conjoined arrestment orders

63.—(1) An application under section 66(4) of the Act(9) for variation of a conjoined arrestment order shall be in form 58.

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

- (a) the name and address of the debtor, the employer, the creditors whose debts are being enforced by the conjoined arrestment order and the sheriff clerk;
- (b) the date of the conjoined arrestment order and the court which made the order;
- (c) if appropriate, that any ordinary debt being enforced by the order has been paid, otherwise extinguished or has ceased to be enforceable by diligence and in each case when and how this occurred;
- (d) if appropriate, that an order or decree varying, superseding or recalling any maintenance order has come into effect and when and by whom the order or decree was granted;
- (e) if appropriate, that an obligation to pay maintenance has ceased or has ceased to be enforceable in Scotland and in either case when or how this occurred;
- (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 and, as appropriate, to the debtor, the creditors whose debts are being enforced by the conjoined arrestment order and the employer; and
- (d) complete a certificate of intimation.

Requests by creditors to cease enforcement of debts by conjoined arrestment orders

64.—(1) A request by a creditor to the sheriff under section 66(6) of the Act to vary a conjoined arrestment order, by ordering that a debt being enforced by him under it shall cease to be so enforced, shall be in writing.

(2) The sheriff may grant or refuse such a request or may make such order as he considers appropriate.

Service of sheriff's decision in applications for recall or variation of conjoined arrestment orders

65.—(1) Subject to the following paragraphs of this rule, the final order of the sheriff in an application to which rule 61, 62, 63 or 64 applies shall be served upon the applicant, the employer, the debtor and the creditors whose debts are being enforced under the conjoined arrestment order by recorded delivery post.

(2) Where such service has been unsuccessful, reservice—

- (a) in the case of service on the employer, shall be effected by an officer of court on payment of his fee by the applicant; and

- (b) in any other case of service on a person within the United Kingdom, shall be by ordinary first class post.
- (3) Where an application for variation of a conjoined arrestment order to which rule 63 above applies has been granted, there shall be served by the sheriff clerk with the final order—
 - (a) a copy of the conjoined arrestment order as varied; and
 - (b) a notice in form 59.
- (4) Service under this rule on a person outwith the United Kingdom which cannot be effected by recorded delivery post shall be by any other competent method of service.

Service by post of arrestments against earnings

66. On the face of the envelope used for service of an earnings arrestment schedule, a current maintenance arrestment schedule or a conjoined arrestment order there shall be written or printed the following notice—

“ARRESTMENT OF EARNINGS OF AN EMPLOYEE

This letter contains an earnings arrestment schedule/current maintenance arrestment schedule/conjoined arrestment order. If delivery of the letter cannot be made at the address shown it is to be returned immediately to (name and address).”.

Certificates of execution

67. The certificate of execution of an earnings arrestment or a current maintenance arrestment shall be in form 60.

PART V

WARRANTS FOR DILIGENCE

Summary warrants

- 68.**—(1) A summary warrant for recovery of—
- (a) arrears of rates under section 247 of the Local Government (Scotland) Act 1947(**10**); or
 - (b) arrears of community charge under paragraph 7 of Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987(**11**),
- shall be in form 61.
- (2) A summary warrant for recovery of arrears of rates under section 250 of the Local Government (Scotland) Act 1947 shall be in form 62.
- (3) A summary warrant for recovery of—
- (a) any tax in accordance with section 63 of the Taxes Management Act 1970(**12**) or of earnings-related contributions under that section as read with regulation 28 of the Income Tax (Employments) Regulations 1973(**13**);
 - (b) car tax in accordance with paragraph 3(3) of Schedule 1 to the Car Tax Act 1983(**14**); or

(10) 1947 c. 43
(11) 1987 c. 47
(12) 1970 c. 9
(13) S.I.1973/334
(14) 1983 c. 53

(c) value added tax in accordance with the Value Added Tax Act 1983⁽¹⁵⁾, shall be in form 63.

Applications by creditors for warrants to enforce acquired rights

69.—(1) An application to the sheriff clerk under section 88(2) of the Act by a person, who has acquired a right by assignation, confirmation as executor or otherwise to a decree, obligation, order or determination referred to in section 88(1) of the Act for a warrant authorising diligence, shall be made by minute endorsed on the extract decree or other document.

(2) The sheriff clerk shall, where he is satisfied that the applicant's right is established, endorse the warrant sought in such an application on the extract decree or other document.

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⁽¹⁶⁾ 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.

⁽¹⁵⁾ 1983 c. 55

⁽¹⁶⁾ 1907 c. 51; Schedule 1 was amended by S.I. 1983/747

(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.

Edinburgh
16th November 1988

Emslie
Lord President, IPD

SCHEDULE

FORMS

ARRANGEMENT OF FORMS

EXTENSION OF TIME TO PAY AND RELATED MATTERS

<i>Form No.</i>	<i>Title</i>	<i>Rule</i>
1	Application for variation or recall of a time to pay direction and arrestment	4(1)
2	Application for time to pay order	5(1)
3	Application for variation or recall of a time to pay order, arrestment and poinding	6(1)
POINDINGS AND WARRANT SALES		
4	Application for release of poinded article	8(1)
5	Poinding schedule	11
6	Application for security of poinded article	12(1)
7	Application for immediate disposal of perishable poinded article	13(1)
8	Receipt under s.21(5) of, and para 6(5) of Schedule 5 to the Debtors (Scotland) Act 1987	14
9	Report of poinding	15(1)
10	Application for release of poinded article on ground of undue harshness	16(1)
11	Application for declarator that poinding invalid or ceased to have effect or for recall of poinding	17(1)
12	Application for sist of proceedings in poinding of mobile home	18(1)
13	Application for extension of duration of poinding	19(1)
14	Application for authority to move poinded article	20(1)

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

<i>Form No.</i>	<i>Title</i>	<i>Rule</i>
15	Application for an order for restoration of removed article	21(1)
16	Application for recall of an order for restoration of removed article	22(1)
17	Application for authority to execute further poinding	23(1)(b)
18	Application for authority to execute further poinding and/or to revalue damaged article	24(1)
19	Application for an order for consignation by third party	25(1)
20	Application for warrant of sale of poinded article	26(1)
21	Note to debtor of application for warrant of sale	26(5)
22	Consent under section 32(1) and 32(4) of, and paragraph 14(2) and (3) of Schedule 5 to, the Debtors (Scotland) Act 1987	27(1)
23	Receipt under section 33(3) of, and paragraph 15(3) of the Schedule 5 to, the Debtors (Scotland) Act 1987	28
24	Application for variation of a warrant of sale of poinded article	30(1)
25	Notice to debtor of application for variation of a warrant of sale	30(5)
26	Report of sale	31(1)
27	Application for release of poinded article belonging to third party	34(1)
28	Application for release of poinded article in common ownership	35(1)
29	Application for finding of common ownership of poinded article	36(1)
DILIGENCE AGAINST EARNINGS		
30	Earnings arrestment schedule	38(1)

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

<i>Form No.</i>	<i>Title</i>	<i>Rule</i>
31	Intimation to employer under section 49(8) of the Debtors (Scotland) Act 1987	39(1)
32	Application for declarator that earnings arrestment invalid or ceased to have effect	40(1)
33	Application for determination of dispute in operation of earnings arrestment	41(1)
34	Current maintenance arrestment schedule	42(1)
35	Intimation to employer under section 53(4) of the Debtors (Scotland) Act 1987	43(1)
36	Intimation to employer under section 53(5) of the Debtors (Scotland) Act 1987	44(1)
37	Intimation to debtor under section 54(1)(a) of the Debtors (Scotland) Act 1987	45(1)
38	Application for declarator that current maintenance arrestment invalid ceased to have effect	46(1)
39	Application for recall of a current maintenance arrestment	47(1)
40	Application for determination of dispute in operation of current maintenance arrestment	48(1)
41	Application for payment by creditor to debtor of penalty sum	51(1)
42	Application for order on employer to provide information	52(1)
43	Application for conjoined arrestment order	53(1)
44	Form of notice of application for a conjoined arrestment order	53(4)
45	Conjoined arrestment order	54(1)
46	Notice of service of conjoined arrestment order	54(5)

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

<i>Form No.</i>	<i>Title</i>	<i>Rule</i>
47	Application for warrant for diligence against employer	55(1)
48	Application for order on employer to provide information	56(1)
49	Application for variation of a conjoined arrestment order	57(1)
50	Form of notice of application for variation of a conjoined arrestment order	57(3)(a)
51	Notice of service of an order varying a conjoined arrestment order in terms of section 62(5) of the Debtors (Scotland) Act 1987	57(7)(b)
52	Intimation to employer in terms of section 63(7) of the Debtors (Scotland) Act 1987	58(1)(a)
53	Intimation to employer in terms of section 63(8) of the Debtors (Scotland) Act 1987	58(1)(b)
54	Application for determination of dispute in operation of conjoined arrestment order	59(1)
55	Application for payment by creditor to debtor of penalty sum (conjoined arrestment order)	60(1)
56	Application for recall of conjoined arrestment order	61(1)
57	Application for recall of conjoined arrestment order by all creditors whose debts are being enforced by it	62(1)
58	Application for variation of conjoined arrestment order	63(1)
59	Notice of service of an order varying a conjoined arrestment order in terms of section 66 of the Debtors (Scotland) Act 1987	65(3)(b)
60	Certificate of execution of earnings arrestment schedule/ current maintenance arrestment schedule	67

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<i>Form No.</i>	<i>Title</i>	<i>Rule</i>
WARRANTS FOR DILIGENCE		
61	Summary warrant for recovery of rates or community charge	68(1)
62	Summary warrant for recovery of rates	68(2)
63	Summary warrant for recovery of taxes etc.	68(3)
MISCELLANEOUS		
64	Warrant for intimation	73(1)

FORM 1 *The Debtors (Scotland) Act 1987, Section 3*

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

Rule 4(1)

Sheriff Court

..... 19.....
(Court Ref No)

APPLICATION FOR
VARIATION OR RECALL
OF A TIME TO PAY DIRECTION
AND ARRESTMENT

BY
.....
.....
..... Applicant

against

*delete as
appropriate

.....
.....
.....
..... Respondent

The sheriff on 19 granted an order for payment by the defender to the pursuer of the sum of £ along with expenses amounting to £ and interest and made a time to pay direction directing that the total sum ordered be paid by

- *(a) Instalments of £ each which started on 19 .
- *(b) A deferred lump sum which became payable by 19 .

To the best of the applicant's knowledge and belief the amount which remains outstanding under the said direction at the date of this application is £

The applicant who is the defender/pursuer wishes the time to pay direction recalled or varied as follows (please give details including reasons for application):-
.....
.....
.....

or

seeks to have recalled or restricted an arrestment made on (give details)
19 at in respect of

Therefore the applicant asks the court:

- *(a) To recall or vary the time to pay direction as sought.
- *(b) To recall/restrict the arrestment referred to.

Date 19.....

(signed)
Applicant

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

Rule 5(1)

Sheriff Court

..... 19.....
(Court Ref No)

PART A

APPLICATION FOR
TIME TO PAY ORDER

BY
.....
..... Applicant

PERSON TO WHOM DEBT DUE
.....
.....
..... Creditor

PART B

*(a) The applicant is the defender in an action raised in this Sheriff Court/Court of Session by the creditor in which decree was granted on 19 for £ ;

*delete as appropriate

OR

*(b) The debt due by the applicant is payable under a document bearing a warrant for diligence (give details of this document):-

The applicant states that to the best of his knowledge and belief that no time to pay direction or order relating to the debt has been made and that at the date of this application the amount outstanding is £ (this figure should take account of interest, court expenses and any payments made to account).

The applicant states that the following steps have been taken in respect of the debt, namely

- *(a) A charge for payment has been served on the applicant;
- *(b) An arrestment has been carried out;
- *(c) An action for adjudication of debt has been commenced.

PART C

The applicant offers to pay the outstanding amount

*(a) By instalments of £ each
(Tick one box only) Week Fortnight Month

OR

*(b) In one payment within Weeks/Months

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The applicant's financial position is:-

	Weekly	Fortnightly	Monthly
My outgoings are:	<input type="text"/>	<input type="text"/>	<input type="text"/>
Rent/Mortgage	£		
Heating	£		
Food	£		
HP	£		
Other	£		

	Weekly	Fortnightly	Monthly
My income is:	<input type="text"/>	<input type="text"/>	<input type="text"/>
Wages/Pensions	£		
Social Security	£		
Other	£		

Total **£**

Total **£**

Dependents: Children-how many

Dependent relatives-how many

Here list all capital (if any) eg value of house; amount in bank/building society account; shares or other investments:-

Here list any outstanding debts:-

Here specify any action taken by creditor to enforce the debt (eg *arrestment; poinding; etc*):-

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EXTRACT FROM SECTION 5(4) AND (5) OF THE DEBTORS (SCOTLAND) ACT 1987

- “(4) It shall not be competent for the sheriff to make a time to pay order:–
- (a) where the amount of the debt outstanding at the date of the making of the application under subsection (2) above (exclusive of any interest) exceeds £10,000 or such amount as may be prescribed in regulations made by the Lord Advocate;
 - (b) where, in relation to the debt, a time to pay direction or a time to pay order has previously been made (whether such direction or order is in effect or not);
 - (c) where, in relation to the debt, a summary warrant has been granted;
 - (d) in relation to a debt including any sum recoverable by or on behalf of the Inland Revenue in respect of tax or as if it were tax;
 - (e) in relation to a debt including rates payable to a rating authority;
 - (ee) in relation to a debt including any sum due to–
 - (i) a levying authority in respect of any community charge or community water charge within the meaning of section 26 of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (which defines terms used in that Act) or any amount payable under section 18(3) (payment of community charges in respect of backdated period, with surcharge and interest) of that Act; or
 - (ii) a regional or islands council in respect of any amount payable as a civil penalty under section 17(10) or (11) (failure to provide information to a registration officer) of that Act; or
 - (f) in relation to a debt including–
 - (i) any duty due under the Betting and Gaming Duties Act 1981;
 - (ii) car tax due under the Car Tax Act 1983; or
 - (iii) value added tax due under the Value Added Tax Act 1983 or any sum recoverable as if it were value added tax.
- (5) Where in respect of a debt to which this section applies:–
- (a) there has been a pouncing of articles belonging to the debtor and a warrant of sale has been granted in respect of them but has not been executed;
 - (b) moveable property of the debtor has been arrested and in respect of the arrested property–
 - (i) a decree in an action of forthcoming has been granted but has not been enforced; or
 - (ii) a warrant of sale has been granted but the warrant has not been executed; or
 - (c) a decree in an action of adjudication for debt has been granted and the creditor has, with the debtor’s consent or acquiescence, entered into possession of any property adjudged by the decree or has obtained a decree of mails and duties, or a decree of removing or ejection, in relation to any such property,

it shall not be competent for the sheriff to make a time to pay order in respect of that debt until the diligence has been completed or has otherwise ceased to have effect.”.

The Sheriff having considered the foregoing application and being satisfied that it is properly made, meantime sists all diligence in terms of section 8(1) of the Debtors (Scotland) Act 1987 pending the disposal of the application.

Appoints the creditor to furnish the Sheriff with particulars of the decree or other document under which the debt is payable within _____ days of intimation hereof.

Appoints the sheriff clerk to intimate a copy of the application and this interlocutor to the creditor; appoints him if he objects to the granting of this application to make written representations to the court within 14 days of the date of intimation hereof.

Sheriff

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

Rule 6(1)

Sheriff Court

.....
(Court Ref No)

APPLICATION FOR VARIATION
OR RECALL OF A TIME TO PAY
ORDER, ARRESTMENT AND
POINDING

BY
.....
.....
..... Applicant

Against

.....
.....
..... Respondent

*delete as appropriate

- 1. *(a) On *(date)* decree was granted in this Sheriff Court/Court of Session for payment by the defender to the pursuer of the sum of £ along with expenses of £ and interest.
- *(b) The debt due by the applicant/respondent is payable under a document bearing a warrant for diligence (*give details of this document*):-

- 2. The sheriff on *(date)* made a time to pay order, that the debt outstanding amounting to £ be paid:-
 - *(a) By instalments of £ each which started on
 - *(b) As a lump sum which became payable by

To the best of the applicants knowledge and belief the amount which remains outstanding under the said order at the time of this application is £ .

- 3. The applicant who is the debtor/creditor:-
 - *(a) Wishes the time to pay order recalled or varied as follows (*specify order sought*):-
 - *(b) Seeks the recall or restriction of an arrestment (*give details of arrestment served, person on whom served, and date, and specify order sought*):-
 - *(c) Seeks the recall of the poinding carried out on the instructions of the creditor at (*place of poinding*) on (*date of poinding*).

Give reasons for this application:-

- 4. The applicant asks the court:-
 - *1. To recall or vary the time to pay order as requested.
 - *2. To recall or restrict the arrestment referred to.
 - *3. To recall the poinding referred to .
 - *4. (*Specify any other order sought and the diligence to which it relates*).
.....

Date

Signed.....
Applicant

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FORM 4 *The Debtors (Scotland) Act 1987, Section 16(4)/Schedule 5, Paragraph 1(4)*

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FORM 5 *The Debtors (Scotland) Act 1987, *Section 20 (5)/Schedule 5 Paragraph 5(5)*

Rule 11

Poinding Schedule

To *(name and address of debtor)*

*delete as appropriate

On *(date)* a decree was granted in the *Sheriff Court, *(place)*/*Court of Session in an action by *(name and address)*

against *(name and address)*

Pursuer(s)
Defender(s)

(or give details of other document or summary warrant upon which the poinding proceeds)

*in which you were ordered to pay *(specify amounts)* to the said *(name of creditor)*
*On *(date)* a charge for payment of these sums (under deduction of £ _____ paid to account since the date of the decree) was served on you.

I, *(name and address)*, *messenger-at-arms/*sheriff officer on the instructions of the said *(name of creditor)* point at *(address)* the articles belonging to you specified in the list attached.

The sum now due by you is

Principal sum	£	(Further interest may accrue if the debt is not paid immediately)
Interest to date	£	
Expenses or other sum <i>(specify)</i>	£	
Less paid to account	£ _____	
Charge Fee	£	
Poinding Fee	£	
Other Fee <i>(specify)</i>	£	
Travelling	£	
Other Outlays <i>(specify)</i>	£ _____	
TOTAL	_____	

If this sum is not paid *an application will be made to the sheriff for a warrant to sell the pointed articles/*arrangements will be made for the sale of the pointed articles.

Payment should be made to *(name and address)*.

*delete as appropriate

*I am removing the pointed articles to *(address of premises)* because *(officer of court to specify reasons for removal)*.

You may move the pointed articles to another location only if the creditor or the officer of court has consented in writing to this or the sheriff has authorised their removal.

This poinding is carried out by me today *(date)* and is witnessed by *(name and address)*.

I *deliver/*leave this poinding schedule *to/*for you *(name)* today at *(address)*.

WITNESS

OFFICER OF COURT

WARNING: Any unauthorised removal of the pointed articles or any wilful damage or destruction of them by the debtor or persons who know the articles have been pointed shall be a breach of poinding and may be dealt with as a contempt of court.

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LIST SPECIFYING POINDED EFFECTS

ARTICLE(S) POINDED

VALUE FIXED

WITNESS

OFFICER OF COURT

YOUR RIGHTS UNDER THE DEBTORS (SCOTLAND) ACT 1987

To (a) the debtor, (b) any person who owns any poinded article in common with the debtor, (c) any person who is in possession of any poinded article, (d) any person whose only or principal residence has been poinded.

- (1) *The debtor, any person who owns any poinded article in common with the debtor and any person in possession of a poinded article* may apply to the sheriff within fourteen days from the date of the poinding for an order releasing the article on the ground that it is exempt from poinding. Articles which are exempt are listed in *section 16 of the Act/*paragraph 1 of schedule 5 to the Act.
- (2) *The debtor* may at any time after the poinding apply to the sheriff for an order for the security of any of the poinded articles or where they are perishable or likely to diminish in value for their immediate disposal.
- (3) *The debtor* may redeem any poinded article by paying the officer of court who carried out the poinding the amount fixed by him for the article at the poinding and stated in the poinding schedule. Payment must be made within 14 days from the date of the poinding. This right is subject to the power of the Sheriff to order immediate disposal of poinded articles in certain circumstances.
- (4) *The debtor or any person in possession of a poinded article* may apply to the sheriff within fourteen days from the date of the poinding for an order releasing the article on the ground that its inclusion in the poinding or its subsequent sale is unduly harsh.
- (5) *The debtor* may apply to the sheriff on certain grounds stated in the Debtors (Scotland) Act 1987 for an order recalling the poinding or declaring that it is invalid or has ceased to have effect.
- (6) Where a mobile home, such as a caravan, is the residence of the debtor or another person and it has been poinded, an application may be made by such person to the sheriff for an order that for a specified period no further steps shall be taken in the poinding.
- (7) *Any person claiming to own any poinded article in common with the debtor* may at any time after the poinding and before *the warrant sale/*sale of the poinded articles apply to the officer of court for its release from poinding on payment to him of a sum equal to the value of the debtor's interest in the article.

In addition an application may be made to the sheriff within the same period for the release of the article from poinding. The sheriff will release the article if he is satisfied that it is owned in common and either the applicant undertakes to pay to the officer of court the value of the debtors interest in the article or the sheriff is satisfied that the inclusion of the article in the poinding or its subsequent sale is unduly harsh.

Any enquiry relating to the above rights should be made to a solicitor, Citizens Advice Bureau or other local advice centre or to the Sheriff Clerk at

FORM 6 *The Debtors (Scotland) Act 1987, Section 21(1)(a)/Schedule 5 Paragraph 6(1)(a)*

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Rule 12(1)

Sheriff Court

APPLICATION FOR SECURITY OF POINDED ARTICLE

(1) [] [] []

..... 19..... (Court Ref No.) APPLICANT

*delete as appropriate

A. The applicant is
*(a) The creditor
*(b) The officer of court who carried out the pointing
*(c) The debtor

(1) Insert name and address

B. Other persons having an interest are
*(d) The creditor (1) and the officer of court who carried out the pointing
*(e) The debtor (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
in the Court of Session/Sheriff Court at
on 19
against the defender(s) (2)
(or give details of other document or summary warrant upon which the pointing proceeded):-

(3) Insert address

D. A pointing of the debtor's belongings was carried out by (1)
Sheriff Officer/Messenger-at-Arms on the instructions of the creditor
on 19 at (3)

E. Among the articles pointed were the following:-
It is necessary that an order be made for the security of the pointed article(s)
(give reasons why such an order should be made and proposed security arrangements):-

This application is made under section 21(1)(a) of the Debtors (Scotland) Act 1987/paragraph 6(1)(a) of schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To order such intimation (if any) and further procedure as the court considers appropriate.
2. To make such order as thought appropriate for the security of the pointed article(s) referred to.
3. To award expenses (if competent).

Date19..... (Signed) APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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Rule 12(1)

Sheriff Court

APPLICATION FOR IMMEDIATE DISPOSAL OF PERISHABLE POINDED ARTICLE

(1)

 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate

A. The applicant is
 *(a) The creditor
 *(b) The officer of court who carried out the pointing
 *(c) The debtor

(1) Insert name and address

B. Other persons having an interest are
 *(d) The creditor (1) and the Officer of Court who carried out the pointing
 *(e) The debtor (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
 in the Court of Session/Sheriff Court at
 on 19
 against the defender(s) (2)
 (or give details of other document or summary warrant upon which the pointing proceeded):-

(3) Insert address

D. A pointing of the debtor's belongings was carried out by (1)
 Sheriff Officer/Messenger-at-Arms on the instructions of the creditor
 on 19 at (3)

E. Among the articles pointed were the following:-
 The(se) article(s) are of a perishable nature or are likely to deteriorate substantially and rapidly in condition or value (give reasons for making application):-

This application is made under section 21(1)(b) of the Debtors (Scotland) Act 1987/paragraph 6(1)(b) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To order such further procedure as the court considers appropriate.
 2. To make an order for the immediate disposal of the article(s) referred to.
 3. If the article(s) is/are sold, to order payment of the proceeds of sale to the creditor or consignment of the proceeds in court until the diligence is completed or otherwise ceases to have effect.
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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FORM 8 *Receipt under the Debtors (Scotland) Act 1987, Section 21(5)/Schedule 5 Paragraph 6(5)*
Rule 14

In respect of the poinding executed on *(date)* at the instance of A *(design)* against B *(design)*, received the sum of £ _____ in redemption of the following article(s) viz: *(specify)*

.....(Signature of officer of court and date)

FORM 9 *The Debtors (Scotland) Act 1987, Section 22(1)*

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

Rule 15(1)

Report of Poining

Date of execution of the poining—(specify)

On (date) a decree was granted in the Sheriff Court, (place)/Court of Session in an action by (name and address)

against (name and address) Pursuer(s)
in which the defender(s) were ordered to pay to the pursuer(s) Defender(s)
(specify amounts)
*(or give details of other document upon which the poining proceeded)

On (date) a charge for payment of these sums (under deduction of £ paid to account since the date of the decree) was served on the said (name of debtor)
The sum now due by the debtor is

Principal sum	£
Interest	£
Expended	£
Less paid to account	£ _____
Charge fee	£
Poining fee	£
Travelling	£
Other outlays (specify)	£ _____

I, (name and address) messenger-at-arms/sheriff officer
attended at (address) along with the witness (name and address)
on the instructions of the creditor(s) (name and address)

*delete if appropriate

exhibited the warrant to poind with certificate of execution of charge relating thereto to person(s) present and *demanded payment of the sum due from the debtor/a person who in the debtor's absence appeared to be authorised to act for him. The said sum not being paid, and having made enquiry of those present as to the ownership of the articles I proposed to poind,* and in particular whether there were any persons who owned any of the articles in common with the debtor, I thereafter poinded the articles, belonging to the said (name of debtor), specified in the list attached at the valuations contained therein.

I then advised person(s) present of their rights to redeem poinded article(s) or to apply for their release from poining in terms of sections 16(4), 21(4), 23(1), 41(2) and (3)(a) and 41(3)(b) of the Debtors (Scotland) Act 1987.

I left/removed the poinded articles at/to meantime and warned those present that any unauthorised removal of the poinded article(s) or any wilful damage or destruction of them by the debtor or persons who knew the article(s) had been poinded would be a breach of poining and could be dealt with as a contempt of court.

WITNESS

OFFICER OF COURT

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ARTICLE(S) POINDED

**VALUE FIXED
BY ME/OR
OTHERWISE**

I delivered/left a pointing schedule signed by myself and the witness to the pointing to/for (*name of debtor/person in possession of articles*)
at _____ on the _____
day of _____

*delete if appropriate

*and served a copy of it by first class post on the said debtor(s)

WITNESS

OFFICER OF COURT

Note: (i) Any assertion made before the submission of this report to the sheriff, that any pointed article does not belong to the debtor(s), must be noted in the report.
(ii) Any redemption of pointed articles by the debtor before the submission of this report to the sheriff must be mentioned in the report.
(iii) Where the report relates to a further or second pointing to enforce the same debt, the officer of court must specify in the report the circumstances justifying the further or second pointing.

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Rule 16(1)

Sheriff Court

**APPLICATION FOR
RELEASE OF POINDED
ARTICLE ON GROUND
OF UNDUE HARSHNESS**

(1) [] 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate

A. The applicant is
*(a) The debtor
*(b) A person having possession of the pointed article(s)

(1) Insert name and address

B. Other persons having an interest are
*(c) The creditor (1)
*(d) The debtor (1)
*(e) A person having possession of the pointed article(s) (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
in the Court of Session/Sheriff Court at
on 19
against the defender(s) (2)
(or give details of other document or summary warrant upon which the pointing proceeded):—

(3) Insert address

D. A pointing of the debtor's belongings was carried out by (1)
sheriff officer/messenger-at-arms on the instructions of the creditor
on 19 at (3)

E. Among the articles pointed were the following:—
The(se) article(s) should be released from the pointing (state why pointing of article(s) is said to be unduly harsh):—

This application is made under section 23(1) of the Debtors (Scotland) Act 1987/paragraph 7(1) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:—
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant, to those persons stated above as having an interest and to the officer of court who carried out the pointing.
 3. To order the said article(s) be released from pointing.
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL
ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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FORM 11 *The Debtors (Scotland) Act 1987, Section 24/Schedule 5 Paragraph 8*

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FORM 12 *The Debtors (Scotland) Act 1987, Section 26(1)/Schedule 5 Paragraph 10(1)*

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

Rule 18(1)

Sheriff Court

APPLICATION FOR SIST (1) 19.....
 OF PROCEEDINGS IN (Court Ref No.)
 POINDING OF MOBILE APPLICANT
 HOMES

*delete as appropriate

A. The applicant is
 *(a) The debtor
 *(b) A person whose only or principal residence is a poinded mobile home

(1) Insert name and address

B. Other persons having an interest are
 (c) The creditor (1)
 *(d) The debtor (1)
 *(e) A person whose only or principal residence is a poinded mobile home (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
 in the Court of Session/Sheriff Court at
 on 19
 against the defender(s) (2) (or give details of other document or summary warrant upon which the poinding proceeded):—

(3) Insert address

D. A poinding of the debtor's belongings was carried out by (1)
 sheriff officer/messenger-at-arms on the instructions of the creditor
 on 19 at (3)

E. Among the articles poinded was a mobile home (state whether caravan, houseboat, or other moveable structure) namely:—
 This is the only principal residence of the applicant.
 *A warrant of sale has not been granted in respect of the "mobile home".
 *Intimation has not been given to the debtor under paragraph 16 of schedule 5 to the Act of the date arranged for the removal of the poinded articles for sale or if the articles are to be sold in the premises where they are situated of the date arranged for the sale.

This application is made under section 26(1) of the Debtors (Scotland) Act 1987/paragraph 10(1) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:—
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to those persons stated above as having an interest and to the officer of court who carried out the poinding.
 3. To order that for such period as the court shall specify, no further steps shall be taken in the poinding.
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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FORM 13 *The Debtors (Scotland) Act 1987, Section 27/Schedule 5 Paragraph 11*

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

Rule 19(1)

Sheriff Court

APPLICATION FOR (1) 19.....
 (FURTHER) EXTENSION (Court Ref No.)
 OF DURATION OF POINDING APPLICANT
 OF DURATION OF POINDING

*delete as appropriate A. The applicant is
 *(a) The creditor
 *(b) An officer of court on behalf of a creditor

(1) Insert name and address B. Other persons having an interest are
 (c) The debtor (1)

(2) Insert name C. Decree was granted in an action by the pursuer(s) (2)
 in the Court of Session/Sheriff Court at
 on 19
 against the defender(s) (2) (or give details of other document or
 summary warrant upon which the poinding proceeded):—

(3) Insert address D. A poinding of the debtor's belongings was carried out by (1)
 sheriff officer/messenger-at-arms on the instructions of the creditor
 on 19 at (3)

E. *(a) The poinding ceases to have effect on
 or
 *(b) An extension of duration of poinding was granted on extending the poinding so that it ceases to have effect on
 No application has been made under section 30(1) of the Act for warrant of sale.
 (Narrate ground(s) for (further) extension):—

This application is made under section 27 of the Debtors (Scotland) Act 1987/paragraph 11 of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:—
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant, to the debtor and to the officer of court who carried out the poinding, (if not the applicant).
 3. To (further) extend the duration of the poinding for (state period proposed).
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 14 *The Debtors (Scotland) Act 1987, Section 28(1)(b)/Schedule 5 Paragraph 12(1)(b)*

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

Rule 20(1)

Sheriff Court

APPLICATION FOR AUTHORITY TO MOVE POINDED ARTICLES (1) 19.....
 (Court Ref No.) APPLICANT

*delete as appropriate A. The applicant is
 *(a) The debtor
 *(b) A person having possession of the pointed articles

(1) Insert name and address B. Other persons having an interest are
 (c) The creditor (1)
 *(d) The debtor (1)
 *(e) A person having possession of the pointed articles (1)

(2) Insert name C. Decree was granted in an action by the pursuer(s) (2)
 in the Court of Session/Sheriff Court at
 on 19
 against the defender(s) (2)
 (or give details of other document or summary warrant upon which the pointing proceeded):-

(3) Insert address D. A pointing of the debtor's belongings was carried out by (1)
 sheriff officer/messenger-at-arms on the instructions of the creditor
 on 19 at (3)

E. Among the articles pointed were the following:-
 These articles are presently situated at
 The applicant wishes authority to move these articles to
 (give reasons for removal):-

This application is made under section 28(1)(b) of the Debtors (Scotland) Act 1987/paragraph 12(1)(b) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to those persons stated above as having an interest and to the officer of court who carried out the pointing.
 3. To authorise removal of the pointed articles.
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 15 *The Debtors (Scotland) Act 1987, Section 28(4)(a)/Schedule 5 Paragraph 12(4)(a)*

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

Rule 21(1)

Sheriff Court

APPLICATION FOR AN ORDER FOR RESTORATION OF REMOVED ARTICLES (1) 19.....
(Court Ref No.)
APPLICANT

A. The applicant is
*(a) The creditor

(1) Insert name and address

B. Other persons having an interest are
(b) The debtor (1)
(c) The person in possession of the poidned articles (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
in the Court of Session/Sheriff Court at on 19
against the defender(s) (2)
(or give details of other document or summary warrant upon which the poidning proceeded):-

(3) Insert address

D. A poidning of the debtor's belongings was carried out by (1)
sheriff officer/messenger-at-arms on the instructions of the creditor
on 19 at (3)

E. Among the articles poidned were the following:—
The(se) article(s) has/have been removed from premises situated at (3)..... otherwise than in accordance with Part II of or Schedule 5 to the Debtors (Scotland) Act 1987 and are now in the possession of (1).....
(State whereabouts of articles if known):-

This application is made under section 28(4)(a) of the Debtors (Scotland) Act 1987/paragraph 12(4)(a) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:—
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to the debtor, the person in possession of the poidned articles and to the officer of court who carried out the poidning.
 3. To order that the person(s) in possession of the poidned articles restore them to the premises from which they were removed within a specified period.
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 16 *The Debtors (Scotland) Act 1987 Section 28(5)(b)+(c)/Schedule 5 Paragraph 12(5)(b)+(c)*

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

FORM 17 *The Debtors (Scotland) Act 1987, Section 28(6)/Schedule 5 Paragraph 12(6)*

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

Rule 23(1)(b)

Sheriff Court

APPLICATION FOR AUTHORITY TO EXECUTE FURTHER POINDING

(1)

 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate

A. The applicant is
 *(a) The creditor
 *(b) An officer of court on behalf of the creditor

(1) Insert name and address

B. Other persons having an interest are
 (c) The debtor (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
 in the Court of Session/Sheriff Court at
 on 19.....
 against the defender(s) (2)
 (or give details of other document or summary warrant upon which the poinding proceeded):-

(3) Insert address

D. A poinding of the debtor's belongings was carried out by (1)
 sheriff officer/messenger-at-arms on the instructions of the creditor
 on 19..... at (3)

E. Among the articles poinded were the following:—
 These articles were removed from premises at (3)
 otherwise than in accordance with Part II of or Schedule 5 to the Debtors
 (Scotland) Act 1987. The debtor was at fault for their removal and authority
 should be given for the poinding of other articles belonging to him in the
 same premises (give reasons for the application including reasons for alleging
 debtor at fault):-

This application is made under section 28(6) of the Debtors (Scotland) Act 1987/paragraph 12(6) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:—
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to the debtor and to the officer of court who carried out the poinding, (if not the applicant).
 3. To authorise the poinding of other articles belonging to the debtor in the premises situated at (3)
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 18 *The Debtors (Scotland) Act 1987, Section 29(2)/Schedule 5 Paragraph 13(2)*

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

FORM 19 *The Debtors (Scotland) Act 1987, Section 29(3)/Schedule 5 Paragraph 13(3)*

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

Rule 25(1)

Sheriff Court

APPLICATION FOR AN ORDER FOR CONSIGNATION BY THIRD PARTY (1) 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate A. The applicant is
 *(a) The creditor/officer of court on behalf of the creditor
 *(b) The debtor

(1) Insert name and address B. Other persons having an interest are
 (c) The person in respect of whom an order for consignment is requested (1)
 *(d) The creditor (1)
 *(e) The debtor (1)

(2) Insert name C. Decree was granted in an action by the pursuer(s) (2)
 in the Court of Session/Sheriff Court at _____ on _____ 19_____
 against the defender(s) (2) _____
 (or give details of other document or summary warrant upon which the pouding proceeded):-

(3) Insert address D. A pouding of the debtor's belongings was carried out by (1)
 sheriff officer/messenger-at-arms on the instructions of the creditor
 on _____ 19____ at (3)

E. Among the articles pouded was the following which was valued at £ _____ :-
 This article has been wilfully *damaged/*destroyed by (1) _____
OR
 This article having been removed from premises by (1) _____
 in breach of pouding has been *damaged/*destroyed/*lost/*stolen/*passed on to another person without knowledge of the pouding for value.
 *The said article is now valued at £ _____
 The said (2).....knew the article had been pouded.

This application is made under section 29(3) of the Debtors (Scotland) Act 1987/paragraph 13(3) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:—
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to those persons stated above as having an interest and to the officer of court who carried out the pouding.
 3. To order the said (2).....to consign £ _____ in court being:
 - *(i) the difference between the value of the article fixed under section 20(4) of the Act/paragraph 5(4) of Schedule 5 to the Act and the value of the article as damaged or
 - *(ii) the value fixed under said section.
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 20 The Debtors (Scotland) Act 1987, Section 30

Rule 26(1)

Sheriff Court

APPLICATION FOR
WARRANT OF SALE OF
POINDED ARTICLES

(name and address)

Applicant

The applicant is the creditor/an officer of court on behalf of the creditor. A pointing of the belongings of the debtor (name and address) was carried out by (name and address) sheriff officer/messenger-at-arms on (date) at (place) on the instructions of the creditor (name and address) and a report of the pointing was made to the Sheriff at on (date). The person who presently has possession of the pointed articles is (name and address).

*delete as appropriate

*The following articles to the value of £ have been released/redeemed from pointing, in terms of section 33 of the Debtors (Scotland) Act 1987:-

The place where it is intended to hold the warrant sale is
*a. an auction room
*b. a dwellinghouse
*c. other premises (state nature of premises)
(Give details of every person whose consent is required if the sale is to be held in a dwellinghouse/other premises):-

The applicant asks the court:-

1. To grant a warrant of sale of the pointed articles by public auction at (place).
2. To appoint (name and address) officer of court to make arrangements for the warrant sale.
3. To direct that the warrant sale shall take place within (state period of time).
4. To grant warrant to said officer of court to open shut and lockfast places for the purpose of executing the warrant.
5. To appoint (name and address) auctioneer/officer of court/ other suitable person, to conduct the warrant sale.
- *6. To grant warrant to said officer of court to remove the pointed articles to the premises at (place) for the sale.
- *7. To direct that the warrant sale shall be advertised by public notice by (state method).

Date19.....

(Signed)

Applicant

FORM 21 The Debtors (Scotland) Act 1987, Section 30

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

Rule 26(5)

NOTICE TO DEBTOR OF APPLICATION FOR A WARRANT OF SALE

*delete as appropriate

(place and date)

To

Debtor

You are served with a copy of the application for a warrant of sale of pointed articles* along with copies of consents obtained.

Creditor/Officer of Court

NOTICE TO DEBTOR

This is an application for warrant to sell pointed articles belonging to you. Please read notes A and B carefully.

A. You may object to the application

1. The grounds for objection are:-
 - a. The pointing is invalid or has ceased to have effect.
 - b. The total value fixed for the articles at the pointing is substantially below the total price which they would likely fetch if sold on the open market.
 - c. The likely proceeds of the warrant sale will not exceed the expenses likely to be incurred in this application and in any steps required in execution of the warrant, on the assumption that the application and such steps are unopposed.
 - d. The granting of this application will be unduly harsh.
2. IF YOU WISHTO OBJECT: you must complete and sign the Notice of Objection attached to this form and return it to the Court within 14 days from (officer of court to specify date), or lodge separate written objections within the same period.
3. You will then be advised by the sheriff clerk of the date fixed for the hearing of the application when you should attend or be represented at court.
4. PLEASE NOTE. If you fail to return the said Notice of Objection to the court or lodge separate written objections as directed and if having objected you fail to attend or be represented at the hearing, the application may be dealt with in your absence.
5. If you oppose the application on frivolous grounds you may have to pay certain expenses.

B. You may redeem any pointed article

To do this you must pay the officer of court, within seven days from the date this application is served on you, the amount fixed for the article at the pointing and stated in the pointing schedule.

If you wish further advice contact any citizen advice bureau/local advice centre/sheriff clerk or solicitor.

The following expenses have been incurred by the creditor in making this application viz:-

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NOTICE OF OBJECTION

*To the Sheriff Clerk
Sheriff Court.....

*In an application by *(state name and address of applicant)* for warrant to sell articles pointed on *(date)* in which a report of the pointing was made to the Sheriff at *(place)* on *(date)*

I, *(name and address)*,
have read the application
I object to the granting of it

.....
(Date) (Signature)

- Please note: (1) This form or separate written objections must be returned to the sheriff clerk within 14 days from *(officer of court to specify date)* but only if you have grounds to object to the application.
- (2) If you oppose the application on frivolous grounds you may have to pay certain expenses.

*To be completed by officer of court
prior to service

FORM 22 *The Debtors (Scotland) Act 1987 consent under Section 32(1)/32(4)/Schedule 5 Paragraph 14(2)/14(3)*

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

Rule 27(1)

*delete as appropriate

*In respect of an application by A (*design*) for warrant of sale of pointed articles belonging to B (*design*)/*In respect of the sale of pointed articles belonging to B (*design*) under summary warrant dated (*specify*) I, (*design*), being the debtor/an occupier of (*the place where sale is to take place*) hereby give my consent to the sale of the articles pointed on (*date*) being held at (*place*)

.....(*Signature and date*)

FORM 23 Receipt under the Debtors (Scotland) Act 1987, Section 33(3)/Schedule 5, Paragraph 15(3)

Rule 28

In respect of the pointing executed on (*date*) at the instance of A (*design*) against B (*design*), received the sum of £ in redemption of the following article(s) viz: (*specify*)

.....(*Signature of officer of court and date*)

FORM 24 The Debtors (Scotland) Act 1987, Section 35(1) or 36(3)(b)

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

Rule 39(1)

Sheriff Court

APPLICATION FOR VARIATION OF A WARRANT OF SALE OF POINDED ARTICLES

[Three horizontal lines for name and address]

(name and address)

Applicant

The applicant is the creditor/an officer of court on behalf of the creditor. A pointing of the belongings of the debtor (name and address) was carried out by (name and address) sheriff officer/messenger-at-arms on (date) at (place) on the instructions of the creditor (name and address) and a report of the pointing was made to the sheriff at on (date) A warrant of sale was granted on (date) . This is returned for amendment. The person who presently has possession of the pointed articles is (name and address)

*delete as appropriate

*The following articles to the value of £ have been released/redeemed from pointing, in terms of sections 33, 40 and 41 of the Debtors (Scotland) Act 1987:-

The place where it is now intended to hold the warrant sale is different from that stated in the original warrant of sale and is
*a. an auction room
*b. a dwellinghouse
*c. other premises (state nature of premises)
(Give details of every person whose consent is required if the sale is to be held in a dwellinghouse/other premises):-

The original warrant of sale should be varied (State variation required and reason for this):-

The following additional powers are required (state powers required):-

The applicant asks the court:-

To vary the warrant of sale granted on (date) and to make order(s) in terms of this application.

Date19.....

(Signed)

Applicant

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

Rule 30(5)

NOTICE TO DEBTOR OF APPLICATION FOR VARIATION OF A WARRANT OF SALE

*delete as appropriate

(place and date)

To

Debtor

You are served with a copy of the application for a variation of warrant of sale of poidned articles* along with copies of consents obtained.

Creditor/Officer of Court

NOTICE TO DEBTOR

This is an application for variation of a warrant to sell poidned articles belonging to you. Please read the following notes carefully.

You may object to the application

1. The grounds for objection are:-
 - a. The poidning is invalid or has ceased to have effect.
 - b. The proposed variation is unsuitable.
2. **IF YOU WISH TO OBJECT:** you must complete and sign the Notice of Objection attached to this form and return it to the court within 7 days from the date this application is served on you, or lodge separate written objections within the same period.
3. You will then be advised by the sheriff clerk of the date fixed for the hearing of the application when you should attend or be represented at court.
4. **PLEASE NOTE** If you fail to return the said Notice of Objection to the court or lodge separate written objections as directed and if having objected you fail to attend or be represented at the hearing, the application may be dealt with in your absence.
5. If you oppose the application on frivolous grounds you may have to pay certain expenses.

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR.

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

NOTICE OF OBJECTION

*To the Sheriff Clerk
Sheriff Court.....

*In an application by *(state name and address of applicant)* for variation of a warrant to sell granted on *(date)* of articles pointed on *(date)* in which a report of the pointing was made to the sheriff at *(place)* on *(date)*

I, *(name and address)*,
have read the application
I object to the granting of it

.....
(Date) *(Signature)*

- Please note: (1) This form or separate written objections must be returned to the sheriff clerk within 7 days from the date the application is served on you, *but only if you have grounds to object to the application.*
- (2) If you oppose the application on frivolous grounds you may have to pay certain expenses.

*To be completed by officer of court
prior to service

FORM 26 *The Debtors (Scotland) Act 1987, Section 39(1)/Schedule 5 Paragraph 20(1)*

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

Sheriff Court

Report of Sale

Details of parties and prior steps in diligence

- 1. The creditor : (name and address)
 - 2. The debtor : (name and address)
 - 3. The person who had possession of the pointed articles, if not the debtor : (name and address)
 - 4. Date of decree etc :
 - 5. Date of extract :
 - 6. Date of charge :
 - 7. Date of pointing :
 - 8. Date pointing reported :
 - 9. Date warrant of sale granted :
 - 10. Date of any variation to warrant of sale :
- [extract decree and other documents on which the diligence proceeded to be produced]
[warrant of sale and any variation to be produced]

Details of sale arrangements

- 11. Date of sale :
 - 12. Location of sale :
 - 13. Officer of court who made arrangements : (name and address)
 - 14. Person who conducted sale (if different from 13) : (name and address)
 - 15. Person who witnessed sale (if applicable) : (name and address)
- [executions to be produced]
- 16. Intimations, services and public notices given by officer of court in respect of sale or removal of articles for sale :

Disposal of pointed articles and sale proceeds

LIST:-

- 17. Articles sold and amount for which sold
- 18. Articles unsold
- 19. Articles whose ownership passed to creditor
- 20. Articles whose ownership reverted to debtor
- 21. Articles otherwise disposed of (specify)

Specify each item under 17-21 and amount debtor was credited with.

- 22. Articles released/redeemed from pointing and value fixed at pointing.

DETAIL:-

- 23. Disposal of sale proceeds including any surplus paid to debtor.
- 24. Any monies consigned in court.

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STATEMENT OF DEBT AND EXPENSES

Sums due by debtor

1. Sums in decree etc

Principal	_____	
Expenses	_____	
Interest	_____	
Etc	_____	_____

2. Diligence Expenses

	Charge	_____	
	Poining	_____	
[vouchers for outlays to be produced]	Application for Warrant of Sale	_____	
	Etc	_____	_____

3. Sale Expenses

_____	_____

Paid to Account _____

Proceeds of Sale (from 17-22) _____

Consignation on by _____

Balance due to/by debtor _____

This report is made by me (*specify name and address*) to the sheriff at
(*place*) on (*date*)

(Signed)
Messenger-at-Arms/Sheriff Officer

.....
Witness (if applicable)

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

Rule 34(1)

Sheriff Court

APPLICATION FOR
RELEASE OF POINDED
ARTICLE(S)
BELONGING TO THIRD
PARTY

(1)

 19.....
(Court Ref No.)
APPLICANT

A. The applicant is
(a) A person claiming ownership of pointed articles.

(1) Insert name and address

B. Other persons having an interest are
(b) The creditor (1)
(c) The debtor (1)
*delete as appropriate
*(d) Any person (other than the debtor) having possession of the pointed article(s) for which release is sought (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
in the Court of Session/Sheriff Court at
on 19
against the defender(s) (2)
(or give details of other document or summary warrant upon which the pointing proceeded):-

(3) Insert address

D. A pointing of the debtor's belongings was carried out by (1)
sheriff officer/messenger-at-arms on the instructions of the creditor
on 19 at (3)

E. Among the articles pointed were the following:-
A (warrant of) sale of the pointed article(s) has not yet taken place (specify details of where and when a (warrant of) sale is to be held if this has been fixed):-
The(se) article(s) belong to the applicant and should be released from pointing.

This application is made under section 40(2) of the Debtors (Scotland) Act 1987/paragraph 21(2) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to those persons stated above as having an interest and to the officer of court who carried out the pointing.
 3. To order that said article(s) be released from the pointing
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 28 *The Debtors (Scotland) Act 1987, Section 41(3)/Schedule 5 Paragraph 22(3)*

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

Rule 35(1)

Sheriff Court

APPLICATION FOR
RELEASE OF POINDED
ARTICLE(S) IN COMMON
OWNERSHIP

(1)

 19.....
(Court Ref No.)
APPLICANT

A. The applicant is
(a) A person claiming ownership of pointed article(s) in common with the debtor

(1) Insert name and address

B. Other persons having an interest are
(b) The debtor (1) (c) The creditor (1)
* (d) Any other person claiming common ownership of the pointed article(s)(1)
* (e) Any person (other than the debtor) having possession of the pointed article(s) for which release is sought(1)

*delete as appropriate

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2) in the Court of Session/Sheriff Court at on 19 against the defender(s) (2) (or give details of other document or summary warrant upon which the pointing proceeded):-

(3) Insert address

D. A pointing of the debtor's belongings was carried out by (1) sheriff officer/messenger-at-arms on the instructions of the creditor on 19 at (3)

E. Among the articles pointed were the following:-
A (warrant of) sale of the pointed article(s) has not yet taken place (give details of where and when a (warrant of) sale is to be held if this has been fixed):-
The applicant owns the pointed article(s) in common with the debtor (state nature and extent of common interest and name and full address of any other common owner):-
* (i) The applicant undertakes to pay the officer of court a sum equal to the value of the debtors interest in the article(s).
* (ii) The inclusion of the article(s) in the pointing or its/their subsequent sale would be unduly harsh to the applicant (give reasons for application on this basis):-

This application is made under section 41(3) of the Debtors (Scotland) Act 1987/paragraph 22(3) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant to those persons stated above as having an interest and to the officer of court who carried out the pointing.
 - *3. To find that the continued inclusion of the article(s) in the pointing or its/their sale under summary warrant/warrant of sale would be unduly harsh to the applicant.
 4. To order that said article(s) be released from pointing.
 5. To award expenses (if competent).

Date19..... (Signed)

APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 29 *The Debtors (Scotland) Act 1987, Section 41(7)(b)/Schedule 5 Paragraph 22(6)(b)*

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

Rule 36(1)

Sheriff Court

APPLICATION FOR FINDING OF COMMON OWNERSHIP OF POINDED ARTICLE

(1)

19.....
(Court Ref No.)
APPLICANT

A. The applicant is

(a) A person claiming ownership of pointed article(s) in common with the debtor.

(1) Insert name and address

B. Other persons having an interest are

(b) The debtor (1) (c) The creditor (1)

*(d) Any other person claiming common ownership of the pointed article(s)(1)

*delete as appropriate

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)

in the Court of Session/Sheriff Court at _____ on _____ 19____

against the defender(s) (2) _____

(or give details of other document or summary warrant upon which the pointing proceeded):-

(3) Insert address

D. A pointing of the debtor's belongings was carried out by (1)

sheriff officer/messenger-at-arms on the instructions of the creditor

on _____ 19____ at (3) _____

E. Among the articles pointed were the following:-

The applicant claims to own the pointed article(s) in common with the debtor. He does not seek release of the article(s) from pointing. The creditor and debtor do not admit this claim and a finding should be pronounced that a valid claim exists.

(State nature and extent of the common interest and the name and full address of any other common owner):-

This application is made under section 41(7)(b) of the Debtors (Scotland) Act 1987/paragraph 22(6)(b) of Schedule 5 to the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant, to those persons stated above as having an interest and to the officer of court who carried out the pointing.
 3. To find that the applicant has common ownership in the article(s) to the extent of (specify).
 4. To award expenses (if competent).

Date19..... (Signed)

APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 30 *The Debtors (Scotland) Act 1987, Section 47*

Rule 38(1)

Earnings Arrestment Schedule

On the date of service of this schedule there comes into effect an earnings arrestment. Particulars of the arrestment and of the requirement on the employer on a pay-day to pay sums deducted from the debtors earnings to the creditor are given in the schedule.

Particulars of Earnings Arrestment

Employer : (name, designation and address)
 Debtor (employee): (name, designation and address)
 Creditor : (name, designation and address)

Where there is more than one debt state details relating to each separately	The debt recoverable:	ordinary debt	-	
		expenses	-	
		interest	-	
		less paid to account	-	_____
		expenses of serving charge	-	
		expenses of executing this earnings arrestment	-	_____
		TOTAL		_____

Particulars of decree: (specify) or other document or summary warrant upon which this arrestment proceeds

Date of any charge:

(Place and date)

To (name of employer)

You are served with this earnings arrestment schedule along with a copy of sections 49(1) to (6) and Schedule 2 to the Debtors (Scotland) Act 1987.

(Signed)

Officer of Court
 (name, designation and address)

NOTE TO OFFICER OF COURT:

A copy of this earnings arrestment schedule and a copy of section 49(1) to (6) and Schedule 2 to the Debtors (Scotland) Act 1987 is to be intimated to the debtor by you, if reasonably practicable.

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

EFFECT OF EARNINGS ARRESTMENT

An earnings arrestment has the general effect of requiring the employer of a debtor:-

- (1) to deduct a sum calculated in accordance with the Debtors (Scotland) Act 1987 from the debtor's net earnings on every pay-day; and
- (2) to pay any sum so deducted to the creditor as soon as is reasonably practicable.

The arrestment remains in effect until the debt has been paid or otherwise extinguished, the debtor has ceased to be employed by the employer or the arrestment has been recalled or abandoned by the creditor or has ceased to have effect.

Instructions to Employer

Please read these instructions carefully.

1. When this earnings arrestment schedule is served on you, you are required to make a deduction from your employees net earnings on every pay-day *unless* you are already making deductions from his earnings under a previous earnings arrestment or a conjoined arrestment order in which case read sections 59 and 62 of the Debtors (Scotland) Act 1987.
2. (1) You must begin deducting on the first pay-day occurring after a period of seven days after the date of service of this schedule on you.
(2) Where any pay-day occurs within this seven day period you are entitled but not required to begin deducting.
3. The sum to be deducted is calculated in accordance with section 49 of the Debtors (Scotland) Act 1987. (A copy of section 49(1) to (6) and Schedule 2 to the Act is attached) [*officer of court to attach*].
4. As soon as is reasonably practicable you must pay the sum deducted to [*officer of court to insert name and address of a person in the United Kingdom to whom payment is to be made*].
5. You must continue to make deductions and payments until:-
 - (1) the debt recoverable has been paid or otherwise extinguished;
 - (2) the debtor has ceased to be employed by you or;
 - (3) the arrestment has been recalled or abandoned by the creditor or has for any other reason ceased to have effect.
6. You are entitled to charge your employee a fee (at present) on each occasion you make a payment to the creditor.
7. For further information read the following notes.

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NOTES

- (1) The debt recoverable by the arrestment consists of the sums as set out in section 48 of the Act.
- (2) "Earnings" and "net earnings" from which deductions are to be made, are defined in section 73 of the Act.
- (3) You are also referred to the following sections of the Act:–
 - 50(1): Sheriff's power on an application by the debtor or the person on whom the earnings arrestment schedule was served to make an order declaring that the earnings arrestment is invalid or has ceased to have effect.
 - 50(3): Sheriff's power on an application by the debtor, the creditor or the employer to determine any dispute as to the operation of an earnings arrestment.
 - 57(1): Employer's liability where he fails to comply with an earnings arrestment.
 - 58(1): Provisions regarding the simultaneous operation of one earnings arrestment and one current maintenance arrestment.
 - 59(1): While an earnings arrestment is in effect, no other earnings arrestment against the earnings of the same debtor payable by the same employer is competent.
 - 59(4): Employer's duty, on receipt of a second earnings arrestment schedule to give certain information to the "second creditor".
 - 62(2) and (3): Employer's duty, when a conjoined arrestment order is in effect, to give certain information to a creditor who is not included in the conjoined arrestment order and who has served or has in effect an earnings arrestment.
 - 69(3): If deductions are not made on the first pay-day after the service of the earnings arrestment schedule in accordance with section 69(2) of the Act, deductions made on a subsequent pay-day are not to include any deductions in respect of the first pay-day.
 - 69(5)(a): Intimations the employer may expect to receive from the creditor or the sheriff clerk.

Further information and advice about the Act is available from solicitors' offices, Citizens' Advice Bureaux and other local advice centres and sheriff clerks' offices.

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

Rule 39(1)

Intimation to employer in terms of section 49(8)

The employer : (name and address)
The debtor (employee) : (name and address)
The creditor : (name and address)
Date earnings arrestment schedule served on employer: (specify)

To the employer—Take note that on (date) the Lord Advocate made regulations which varied

*delete as appropriate

*(a) Tables A, B and C of Schedule 2 to the Debtors (Scotland) Act 1987 (the statutory deduction tables)

*(b) the percentage specified in subsection (5) and (6)(a)(ii) of section 49 of the Debtors (Scotland) Act 1987 to (specify change)

The regulations come into force on (date)

Date (Signed).....

Creditor/Debtor

- (i) This intimation should be considered carefully by the employer as the variation referred to may affect the sum to be deducted by him under the earnings arrestment (see further section 69(1), (2) and (3) of the Debtors (Scotland) Act 1987).
- (ii) The person intimating this form to the employer must attach the statutory deduction tables as revised where these have been varied by the regulations.

FORM 32 *The Debtors (Scotland) Act 1987, Section 50(1)*

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

Rule 40(1)

Sheriff Court

APPLICATION FOR
DECLARATION THAT
EARNINGS ARRESTMENT
INVALID OR CEASED TO
HAVE EFFECT

(1) []
[]
[]

..... 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate

A. The applicant is
*(a) The debtor
*(b) The person on whom the earnings arrestment schedule was served

(1) Insert name and address

B. Other persons having an interest are
(c) The creditor (1)
*(d) The debtor (1)
*(e) The person on whom the earnings arrestment schedule was served (1)

(2) Insert name

C. Decree was granted in an action by the pursuer(s) (2)
in the Court of Session/Sheriff Court at
on 19
against the defender(s) (2)
(or give details of other document or summary warrant upon which the earnings arrestment proceeded):-

D. An earnings arrestment schedule against the earnings of the debtor (2) was served on (2) by (1) sheriff officer/messenger-at-arms on the instructions of the creditor (2) on 19
A copy of the said schedule is attached.

E. The earnings arrestment is invalid/has ceased to have effect because (Give reasons for application):-

This application is made under section 50(1) of the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to those persons stated above as having an interest.
 3. To make an order declaring that the earnings arrestment is invalid or has ceased to have effect.
 4. To make the following consequential order (give details).
 5. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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FORM 33 *The Debtors (Scotland) Act 1987, Section 50(3)*

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

Rule 41(1)

Sheriff Court

APPLICATION FOR
DETERMINATION OF
DISPUTE IN OPERATION
OF EARNINGS
ARRESTMENT

(1)

 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate A.

The applicant is *(a) The debtor *(b) The creditor *(c) The employer

(1) Insert name and address B.

Other persons having an interest are *(d) The debtor (1) *(e) The creditor (1) *(f) The employer (1)

(2) Insert name C.

Decree was granted in an action by the pursuer(s) (2) in the Court of Session/Sheriff Court at _____ on _____ 19_____ against the defender(s) (2) _____ (or give details of other document or summary warrant upon which the earnings arrestment proceeded):-
--

D.

An earnings arrestment schedule against the earnings of the debtor (2) was served on the employer (2) by (1) _____ sheriff officer/messenger-at- arms on the instructions of the creditor (2) on _____ 19_____ A copy of the said schedule is attached.
--

E.

The following dispute as to the operation of the earnings arrestment requires to be determined (specify nature of the dispute):-

This application is made under section 50(3) the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to those persons stated above as having an interest.
 3. To make an order determining the dispute (specify order sought):-
 - *4. To order the reimbursement by (name person) to (name person) of £ _____ with interest thereon at the rate of (specify rate) from (specify date) or such other date as the court may consider appropriate.
 - *5. To order the payment by (name person) to (name person) of £ _____ with interest thereon at the rate of (specify rate) from (specify date) or such other date as the court may consider appropriate.
 6. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL
ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 34 *The Debtors (Scotland) Act 1987, Section 51*

Rule 42(1)

Current Maintenance Arrestment Schedule

On the date of service of this schedule there comes into effect a current maintenance arrestment. Particulars of the arrestment and of the requirement on the employer on a pay-day to pay sums deducted from the debtors earnings to the creditor are given in the schedule.

Particulars of Current Maintenance Arrestment

Employer : (name, designation and address)
Debtor (employee) : (name, designation and address)
Creditor : (name, designation and address)

Particulars of maintenance order(s) upon: (specify)
which this arrestment proceeds

Maintenance payable by the debtor: (state)
expressed as a daily rate (see section
51(5))

Date of any intimation made under sec-:
tion 54(1)

The debtor has defaulted in his payments: (give particulars of default with reference
under the maintenance order(s) to either subsection (1) or (2) of section 54
of the Act)

*delete as
appropriate

The debtor *is/*is not entitled to deduct:
income tax from the maintenance pay-
able to the creditor

(Place and date)

To (name of employer)

You are served with this current maintenance arrestment schedule along with a copy
of sections 53(1) and (2) of the Debtors (Scotland) Act 1987.

(Signed)
Officer of Court
(name, designation and address)

NOTE TO OFFICER OF COURT

A copy of this current maintenance arrestment schedule and a copy of section 53(1) and (2) of the
Debtors (Scotland) Act 1987 is to be intimated to the debtor by you, if reasonably practicable.

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

EFFECT OF CURRENT MAINTENANCE ARRESTMENT

A current maintenance arrestment has the general effect of requiring the employer of a debtor:–

- (1) to deduct a sum calculated in accordance with the Debtors (Scotland) Act 1987 from the debtor's net earnings on every pay-day; and
- (2) to pay any sum so deducted to the creditor as soon as is reasonably practicable.

The arrestment remains in effect until the debtor has ceased to be employed by the employer or the arrestment has been recalled or abandoned by the creditor or has ceased to have effect.

Instructions to Employer

Please read these instructions carefully.

1. When this current maintenance arrestment schedule is served on you, you are required to make a deduction from your employees net earnings on every pay-day *unless* you are already making deductions from his earnings under a previous current maintenance arrestment or a conjoined arrestment order in which case read sections 59 and 62 of the Debtors (Scotland) Act 1987.
2. (1) You must begin deducting on the first pay-day occurring after a period of seven days after the date of service of this schedule on you.
(2) Where any pay-day occurs within this seven day period you are entitled but not required to begin deducting.
3. (1) The sum to be deducted is calculated in accordance with section 53 of the Debtors (Scotland) Act 1987. (A copy of sections 53(1) and (2) is attached) [*officer of court to attach*].
(2) You may be required to make deductions under both an earnings arrestment and a current maintenance arrestment. If this is the case and on any pay-day the net earnings of your employee are less than the total sums to be deducted by you, you must first deduct under the earnings arrestment and then under the current maintenance arrestment on the balance of the net earnings in accordance with section 53(1) of the Act.
4. As soon as is reasonably practicable you must pay the sum deducted to [*officer of court to insert name and address of a person in the United Kingdom to whom payment is to be made*].
5. You must continue to make deductions and payments until:–
 - (1) the debtor has ceased to be employed by you;
 - (2) the arrestment has been recalled or abandoned by the creditor;
 - (3) the arrestment has ceased to have effect under section 55(8) of the Act or for any other reason.
6. You are entitled to charge your employee a fee (at present) on each occasion you make a payment to the creditor.
7. For further information read the following notes.

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

NOTES FOR EMPLOYER

- (1) "Earnings" and "net earnings" from which deductions are to be made, are defined in section 73 of the Act.
- (2) You are also referred to the following sections of the Act:-
 - 55(1): Sheriff's power on an application by the debtor or the person on whom the current maintenance arrestment schedule was served to make an order declaring that a current maintenance arrestment is invalid or has ceased to have effect.
 - 55(2): Sheriff's power on an application by the debtor to recall a current maintenance arrestment if satisfied that the debtor is unlikely to default again in paying maintenance.
 - 55(5): Sheriff's power on an application by the debtor, the creditor or the employer to determine any dispute as to the operation of a current maintenance arrestment.
 - 57(1): Employer's liability where he fails to comply with a current maintenance arrestment.
 - 58: Provisions regarding the simultaneous operation of one earnings arrestment and one current maintenance arrestment.
 - 59(2): While a current maintenance arrestment is in effect, no other current maintenance arrestment against the earnings of the same debtor payable by the same employer is competent.
 - 59(4): Employer's duty, on receipt of a second current maintenance arrestment schedule to give certain information to the "second creditor".
 - 62(2) and (3): Employer's duty, when a conjoined arrestment order is in effect, to give certain information to a creditor who is not included in the conjoined arrestment order and who has served or has in effect a current maintenance arrestment.
 - 68: Creditor's power to authorise the Secretary of State to receive any sums payable under the current maintenance arrestment direct from the employer.
 - 69(3): If deductions not made on the first pay-day after service of the schedule in accordance with section 69(2) of the Act, deductions made on subsequent pay-day not to include any deductions in respect of first pay-day.
 - 69(5)(6) Intimations the employer may expect to receive from the creditor or the sheriff clerk.

Further information and advice about the Act is available from solicitors' offices, Citizens' Advice Bureaux and other local advice centres and sheriff clerks' offices.

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

Rule 43(1)

Intimation to employer in terms of section 53(4)

The employer : (name and address)
The debtor (employee) : (name and address)
The creditor : (name and address)
Date current maintenance arrestment schedule :
served on employer (specify)

To the employer: Take note that on (date) the Lord Advocate made regulations which varied the sum specified in subsection 2(b) of section 53 of the Debtors (Scotland) Act 1987 to £

The regulations come into operation on (date)

Date (Signed).....
Creditor/Debtor

This intimation should be considered carefully by the employer as the variation referred to may affect the sum to be deducted by him under the current maintenance arrestment (see further section 69(1), (2) and (3) of the Debtors (Scotland) Act 1987).

FORM 36The Debtors (Scotland) Act 1987

Rule 44(1)

Intimation to employer in terms of section 53(5)

The employer : (name and address)
The debtor (employee) : (name and address)
The creditor : (name and address)
Date current maintenance arrestment schedule:
served on employer (specify)

To the employer: Take note that on (date) the small maintenance payment limits mentioned in section 65(1A) of the Income and Corporation Taxes Act 1970 were changed to (specify changes)

The changes come into operation on (date)

Date (Signed).....
Creditor/Debtor

- (i) This intimation should be considered carefully by the employer as the changes made may affect the sum to be deducted by him under the current maintenance arrestment.
- (ii) The person intimating this form to the employer must attach a copy of section 65(1A) of the Income and Corporation Taxes Act 1970 as amended or varied.

FORM 37The Debtors (Scotland) Act 1987

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

Rule 45(1)

Intimation to debtor in terms of section 54(1)(a)

To the debtor (*name and address*)

Take note that a maintenance order, in which you are ordered to make payments to (*name and address of creditor*), was made/registered/confirmed on (*date*) by/in (*name of court*)

A copy of the order is attached.

Date

Signed

Creditor

A current maintenance arremstment schedule may be served on your employer after a period of four weeks from this date if (unless section 56 of the Act applies) a total of 3 instalments of maintenance remains unpaid.

FORM 38 *The Debtors (Scotland) Act 1987, Section 55(1)*

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

Rule 46(1)

Sheriff Court

APPLICATION FOR
DECLARATION THAT
CURRENT
MAINTENANCE
ARRESTMENT INVALID
OR CEASED TO HAVE
EFFECT

(1)

..... 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate

A. The applicant is
*(a) The debtor
*(b) The person on whom the current maintenance arrestment schedule was served

(1) Insert name and address

B. Other persons having an interest are
(c) The creditor (1)
*(d) The debtor (1)
*(e) The person on whom the current maintenance arrestment schedule was served (1)

C. Specify details of maintenance order and when and by whom granted or issued and where appropriate details of its registration or confirmation:-

(2) Insert name

D. A current maintenance arrestment schedule against the earnings of the debtor (2) was served on (2) by (1) sheriff officer/messenger-at-arms on the instructions of the creditor (2) on 19 . A copy of the said schedule is attached

E. The current maintenance arrestment is invalid/has ceased to have effect because (give reasons for application):-

This application is made under section 55(1) of the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant, and to those persons stated above as having an interest.
 3. To make an order declaring that the current maintenance arrestment is invalid or has ceased to have effect.
 4. To make the following consequential order (give details).
 5. To award expenses (if competent).

Date19..... (Signed)
Applicant

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL
ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 39 *The Debtors (Scotland) Act 1987, Section 55(2)*

Rule 47(1)

Sheriff Court

APPLICATION FOR
RECALL OF A CURRENT
MAINTENANCE
ARRESTMENT

(1)

 19.....
(Court Ref No.)
APPLICANT

- A.

The applicant is The debtor

- (1) Insert name and address
- B.

Other persons having an interest are The creditor (1)
--
- C.

Specify details of maintenance order and when and by whom granted or issued and where appropriate details of its registration or confirmation:-

- (2) Insert name
- D.

A current maintenance arrestment schedule against the earnings of the debtor (2) was served on the employer (1) by (1) sheriff officer/messenger-at-arms on the instructions of the creditor (2) on 19 . A copy of the said schedule is attached
--
- E.

The current maintenance arrestment should be recalled (<i>state why you say that you are unlikely to default again in payment maintenance</i>):-
--

This application is made under section 55(2) of the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to the creditor.
 3. To recall the current maintenance arrestment.
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

FORM 40 *The Debtors (Scotland) Act 1987, Section 55(5)*

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

Rule 48(1)

Sheriff Court

APPLICATION FOR DETERMINATION OF DISPUTE IN OPERATION OF CURRENT MAINTENANCE ARRESTMENT

(1) []

..... 19..... (Court Ref No.) APPLICANT

*delete as appropriate

A. The applicant is
*(a) The debtor
*(b) The creditor
*(c) The employer

(1) Insert name and address

B. Other persons having an interest are
*(d) The debtor (1)
*(e) The creditor (1)
*(f) The employer (1)

C. Specify details of maintenance order and when and by whom granted or issued and where appropriate details of its registration or confirmation:-

(2) Insert name

D. A current maintenance arrestment schedule against the earnings of the debtor (2) was served on the employer (2) by (1) sheriff officer/messenger-at-arms on the instructions of the creditor (2) on 19 . A copy of the said schedule is attached

E. The following dispute as to the operation of the current maintenance arrestment requires to be determined (specify nature of the dispute)

This application is made under section 55(5) of the Debtors (Scotland) Act 1987.

- F. The applicant asks the court:-
1. To fix a hearing.
2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant, and to those persons stated above as having an interest.
3. To make an order determining the dispute (specify order sought):-
*4. To order the reimbursement by (name person) to (name person) of £ with interest thereon at the rate of (specify rate) from (specify date) or such other date as the court may consider appropriate.
*5 To order the payment by (name person) to (name person) of £ with interest thereon at the rate of (specify rate) from (specify date) or such other date as the court may consider appropriate.
6. To award expenses (if competent).

Date19..... (Signed)

APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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FORM 41 *The Debtors (Scotland) Act 1987, Section 57(6)*

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

FORM 42 *The Debtors (Scotland) Act 1987, Section 59(5)*

Rule 52(1)

Sheriff Court

APPLICATION FOR ORDER ON EMPLOYER TO PROVIDE INFORMATION (1) 19.....
 (Court Ref No.) APPLICANT

A. The applicant is
A second creditor in terms of section 59(4) of the Debtors (Scotland) Act 1987

(1) Insert name and address B. Other persons having an interest are
The employer (1)

C. An earnings arrestment schedule/a current maintenance arrestment schedule against the earnings of the debtor (1) was served on the said employer by (1) sheriff officer/messenger-at-arms on the instructions of the applicant on 19

D. The arrestment did not come into effect because of the terms of section 59 of the Debtors (Scotland) Act 1987
The employer has failed without reasonable excuse to give the following information to the applicant (*specify information not given*):-

The applicant is entitled to this information.

This application is made under section 59(5) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to the employer.
 3. To order the employer to give the information requested to the applicant within such period as the court may order.
 4. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

FORM 43 *The Debtors (Scotland) Act 1987, Section 60(2)*

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

Rule 53(1)

Sheriff Court

Application for a conjoined arrestment order

1. The applicant : (name and address)
 The debtor (employee) : (name and address)
 The employer : (name and address)
2. The applicant is a creditor of the debtor and wishes to enforce his debt by executing an earnings arrestment and/or a current maintenance arrestment against earnings payable to the debtor by the employer.
3. The applicant cannot execute this arrestment as there is already an earnings arrestment and/or a current maintenance arrestment in effect against these earnings.
4. No conjoined arrestment order has been made against these earnings.
5. The applicant's debt consists of

Where there is more than one ordinary debt state details relating to each separately.

<i>ORDINARY DEBT</i>	<i>CURRENT MAINTENANCE</i>
Sum due under decree or other document or summary warrant	Maintenance payable by debtor expressed as a daily rate:
expenses :	Is the debtor entitled to deduct income tax from maintenance payable? : Yes/No
interest :	Particulars of maintenance order(s) which constituted the obligation to pay maintenance:
less paid to account : _____	Date of any intimation made under section 54(1) of the Act:
expenses of executing current maintenance arrestment :	Specify particulars of debtors default in his payments under the maintenance order(s) with reference to either subsection (1) or (2) of section 54 of the Act :
expenses of serving charge :	
expenses of executing earnings arrestment :	
expenses of this application :	
TOTAL AMOUNT _____	
RECOVERABLE _____	
Particulars of decree or other document or summary warrant upon which the poinding proceeded (<i>specify</i>) :	
Date of any charge :	

6. The person within the United Kingdom to whom payments are to be made is: (*name and address*).
7. Specify the following information for each of the earnings and/or current maintenance arrestments already in effect against the earnings payable to the debtor by the employer.
 The creditor: (name and address)
 Date and place of execution of the arrestment:
 Debt recoverable or daily rate of maintenance as specified in the arrestment:
 The applicant asks the court to make a conjoined arrestment order which
 - a. Recalls the earnings and/or current maintenance arrestment(s) presently in effect against earnings payable to the debtor by the employer.
 - b. Orders the employer, while the conjoined arrestment order is in effect to deduct a sum calculated in accordance with section 63 of the Debtors (Scotland) Act 1987 from the debtors net earnings on any pay-day and to pay this sum as soon as is reasonably practicable to the sheriff clerk at (*place*).

Date

Signed

Applicant

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

Rule 53(4)

Sheriff Court: Court Ref No:

Form of notice of application for a conjoined arrestment order

1. *(Place and Date)*

To *(name and address of person to whom intimation given)*.

This application for a conjoined arrestment order by *(name and address of applicant)* is intimated to you this date.

.....

Sheriff Clerk

2. IF YOU WISH TO OBJECT to the granting of the application you must fill in the box below

I intend to object to the granting of the application	
Date	Signature

3. If you have filled in the box above you must return this form to the court within 14 days from the date of this intimation

The address of the court is: THE SHERIFF CLERK,

4. You will then be advised by the sheriff clerk of the date fixed for the hearing of the application when you should attend or be represented at court.

5. PLEASE NOTE if you fail to return this form to the court as directed or if having returned it you fail to attend or be represented at the hearing the application may be dealt with in your absence.

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE, SHERIFF CLERK OR SOLICITOR.

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

Rule 54(1)

SHERIFF COURT, (*Place*)
UNDER THE DEBTORS (SCOTLAND) ACT 1987, SECTION 60
CONJOINED ARRESTMENT ORDER
IN THE
APPLICATION
BY
(name and address)

(Place and date). The Sheriff RECALLS the following arrestment(s) which have been served on *(name and address of employer)*, the employer of the debtor *(name and address of debtor)* on the following dates:-

1. On *(date)*, for *(amount)*, on behalf of *(name)*
2. Etc

SPECIFIES the amount(s) recoverable under this order as:-

(a) Ordinary debt(s)

Name of creditor	Amount recoverable
------------------	--------------------

(b) Current Maintenance

Name of each maintenance creditor	Daily rate £
	Aggregate daily rate £

REQUIRES the said employer of the debtor, while this order is in effect to deduct a sum calculated in accordance with section 63 of the Debtors (Scotland) Act 1987 from the said debtor's net earnings on any pay-day and to pay it as soon as is reasonably practical to the sheriff clerk, *(address of sheriff clerk's office)*;

Sheriff

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

INSTRUCTIONS TO EMPLOYER

Please read these instructions carefully

1. As soon as this conjoined arrestment order comes into effect, any earnings arrestment and/or current maintenance arrestment against earnings payable by you to your employee is recalled and you must stop making deductions under the(se) arrestments.
2. While this conjoined arrestment order is in effect you are required to deduct a sum from your employee's net earnings on any pay-day and to pay it as soon as is reasonably practicable to the sheriff clerk at (*address of sheriff clerk's office*).
3. When making payment to the sheriff clerk you are required to supply him with the following information:-
 - (1) Name and address of your employee
 - (2) Date of the conjoined arrestment order
 - (3) Sum deducted from his earnings for ordinary debt(s)
 - (4) Sum deducted from his earnings for current maintenance
 - (5) Total sum being paid to the sheriff clerk
 - (6) Whether income tax was deducted from the sum due for current maintenance
4. The sum to be deducted is calculated in accordance with section 63 of the Debtors (Scotland) Act 1987 (a copy of sections 63(1) to (6) is attached) (*sheriff clerk to attach*).
5. You must continue to make these deductions and payments until either-
 - (1) a copy of an order recalling the conjoined arrestment order has been served on you under section 66(7) of the Debtors (Scotland) Act 1987; or
 - (2) the debtor ceases to be employed by you.You should notify the sheriff clerk in writing immediately if the debtor ceases to be employed by you.
6. You are entitled to charge your employee a fee (at present _____) on each occasion you make a payment to the sheriff clerk under the conjoined arrestment order.
7. For further information read the following notes.

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

NOTES

- (1) "Earnings" and "net earnings" from which deductions are to be made is defined in section 73 of the Act.
- (2) You are also referred to the following sections of the Act:–
 - 60(9): employers liability where he fails to comply with a conjoined arrestment order
 - 62(2) and (3): employers duty, when a conjoined arrestment order is in effect, to give certain information to a creditor who is not included in the conjoined arrestment order and who has served or has in effect an earnings arrestment or a current maintenance arrestment.
 - 65(1): Sheriffs power on an application by the debtor, a creditor whose debt is being enforced by a conjoined arrestment order, the employer or the sheriff clerk to determine any dispute as to the operation of a conjoined arrestment order.
 - 66(1): Sheriff's power to recall a conjoined arrestment order where, in particular, all ordinary debts have been paid and all obligations to pay current maintenance have ceased.
 - 66(4): Sheriff's power to vary a conjoined arrestment order where, for example an ordinary debt is paid or a maintenance order being enforced is varied or recalled.
 - 69(3): If deductions are not made on the first pay-day after service of the conjoined arrestment order in accordance with section 69(2) of the Act, deductions made on a subsequent pay-day are not to include any deductions in respect of the first pay-day.

Further information and advice about the Act is available from solicitors offices, Citizens Advice Bureaux and other local advice centres, and sheriff clerks' offices.

FORM 46

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

Rule 54(5)

SHERIFF COURT:

NOTICE OF SERVICE OF CONJOINED ARRESTMENT ORDER

To _____, the debtor's employer.

To _____, debtor.

To _____, creditor.

You are served with a copy of the foregoing conjoined arrestment order along with a copy of sections 63(1) to (6) of the Debtors (Scotland) Act 1987. It comes into effect seven days after service of the copy order on the employer and remains in effect until a copy of an order recalling it is served on the employer under section 66(7) of the Debtors (Scotland) Act 1987 or the debtor ceases to be employed by him. The employer should notify the Sheriff Clerk in writing immediately if the debtor ceases to be employed by him.

Sheriff Clerk
Sheriff Clerk's Office
(Address and date)

Officer of Court
(name and address, designation)

All creditors whose arrestments have been recalled by the foregoing conjoined arrestment order and are included in it must inform the sheriff clerk in writing within 14 days of receiving this notice of the name and address of a person within the United Kingdom to whom payments are to be made by him under the order.

FORM 47 *The Debtors (Scotland) Act 1987, Section 60(9)(c)*

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

Rule 55(1)

Sheriff Court

APPLICATION FOR WARRANT FOR DILIGENCE AGAINST EMPLOYER

(1)

19.....
(Court Ref No.)
APPLICANT

A.

A.	The applicant is (a) The sheriff clerk
----	---

(1) Insert name and address

B.

B.	Other persons having an interest are (b) The employer (1) (c) The debtor (1) (d) The creditors whose debts are being enforced by the conjoined arrestment order (1)
----	--

(2) Insert name

C.

C.	A conjoined arrestment order against the earnings of the debtor (2) was made on (date) by the sheriff at (place) and was served on the employer (2) by or on the instructions of the sheriff clerk (place) on (date)
----	--

D.

D.	The employer has failed to comply with the conjoined arrestment order (specify manner and circumstances of this failure):- The employer is accordingly liable to pay to the sheriff clerk £ which he would have paid if he had complied with the order.
----	---

This application is made under section 60(9)(c) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the employer, the debtor and the creditors whose debts are being enforced by the conjoined arrestment order.
 3. To order the employer to pay to the sheriff clerk (place) £ .
 4. To grant warrant for diligence against the employer for recovery of this sum or such other sum as appears to the court to be due.
 5. To award expenses (if competent).

Date 19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

Rule 56(1)

Sheriff Court

APPLICATION FOR ORDER ON EMPLOYER TO PROVIDE INFORMATION

(1)

..... 19.....
(Court Ref No.)
APPLICANT

- (1) Insert name and address

 A. The applicant is
 The creditor who requires information under section 62(2) or (3)
- *delete as appropriate

 B. Other persons having an interest are
 The employer (1)
- *delete as appropriate

 C. *An earnings arrestment schedule/*a current maintenance arrestment schedule against the earnings of the debtor (1) was served on the said employer by (1) sheriff officer/messenger-at-arms on the instructions of the applicant on 19
- *delete as appropriate

 D. The arrestment *did not come into effect/*has ceased to have effect as a conjoined arrestment order is in effect.
 The employer has failed without reasonable excuse to inform the applicant which court made the conjoined arrestment order.

 The applicant is entitled to this information.

This application is made under section 62(4) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to the employer.
 3. To order the employer to inform the applicant which court made the conjoined arrestment order within such period as the court may order.
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

Rule 57(1)

Sheriff Court

Application for variation of a conjoined arrestment order

1. The applicant : (name and address)
 The debtor (employee) : (name and address)
 The employer : (name and address)
2. The applicant is a creditor of the debtor and wishes to enforce his debt by executing an earnings arrestment and/or a current maintenance arrestment against earnings payable to the debtor by the employer.
3. The debt cannot be enforced by executing an earnings arrestment or a current maintenance arrestment as a conjoined arrestment order is in effect against these earnings.
4. The conjoined arrestment order was made on (date) by the court at (address of court).
5. The applicant's debt consists of

Where there is more than one ordinary debt state details relating to each separately.	<p style="text-align: center;">ORDINARY DEBT</p> Sums due under decree or other document or summary: warrant : expenses : interest : less paid to account : _____ expenses of executing current: maintenance arrestment : expenses of serving charge : earnings arrestment : expenses of this application : TOTAL AMOUNT _____ RECOVERABLE _____ Particulars of decree or other document or summary warrant which constituted the debt: (specify) Date of any charge	<p style="text-align: center;">CURRENT MAINTENANCE</p> Maintenance payable by the debtor expressed as a daily rate: Is the debtor entitled to deduct income tax from maintenance payable? : Yes/No Particulars of maintenance order(s) which constituted the obligation to pay maintenance: Date of any intimation made under section 54(1) of the Act: Particulars of debtors default in his payments under the maintenance order(s) with reference to either subsection (1) or (2) of section 54 of the Act :
---	--	--

6. The person within the United Kingdom to whom payments are to be made is: (name and address).

The applicant asks the court:-

To vary the conjoined arrestment order granted on (date) to include the applicant's debt among the debts being enforced by the conjoined arrestment order.

Date

Signed

Applicant

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

Rule 57(3)(a)

Sheriff Court: Court Ref No:

Form of notice of application for variation of a conjoined arrestment order

1. (Place and Date)

To (name and address of person to whom intimation given).

This application for a variation of a conjoined arrestment order by (name and address of applicant) is intimated to you this date.

.....

Sheriff Clerk

2. IF YOU WISH TO OBJECT to the granting of the application you must fill in the box below

I intend to object to the granting of the application	
Date	Signature

3. If you have filled in the box above you must return this form to the court within 14 days from the date of this intimation.

The address of the court is: THE SHERIFF CLERK,

4. You will then be advised by the sheriff clerk of the date fixed for the hearing of the application when you should attend or be represented at court.

5. PLEASE NOTE if you fail to return this form to the court as directed or if having returned it, you fail to attend or be represented at the hearing, the application may be dealt with in your absence.

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE, SHERIFF CLERK OR SOLICITOR.

FORM 51

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

Rule 57(7)(b)

SHERIFF COURT:

NOTICE OF SERVICE OF AN ORDER VARYING A CONJOINED ARRESTMENT ORDER UNDER SECTION 62(5) OF THE DEBTORS (SCOTLAND) ACT 1987

To _____, the debtor's employer.

To _____, debtor.

To _____, creditor.

You are served with (1) copy of an order dated _____ varying a conjoined arrestment order made on _____

(2) a copy of the conjoined arrestment order as varied

(3) a copy of subsections (1) to (6) of section 63 of the Debtors (Scotland) Act 1987.

The employer is required to operate the conjoined arrestment order as varied seven days after service of the copy order on him, although he may operate it on any pay-day occurring within this seven day period. The conjoined arrestment order as varied remains in effect until a copy of an order recalling it is served on the employer under section 66(7) of the Debtors (Scotland) Act 1987 or the debtor ceases to be employed by him. The employer should notify the Sheriff Clerk in writing immediately if the debtor ceases to be employed by him.

Sheriff Clerk
Sheriff Clerk's Office
(Address and date)

Officer of Court
(Name, designation and address)

FORM 52 *The Debtors (Scotland) Act 1987*

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

Rule 58(1)(a)

Intimation to employer under section 63(7)

The employer : (name and address)
 The debtor (employee) : (name and address)
 The sheriff clerk : (name and address)
 Date of conjoined arrestment order : (specify)
 Date order served on employer : (specify)
 Date of order varying the conjoined arrestment order : (specify)
 Date varied order served on employer : (specify)

To the employer—Take note that on (date) the Lord Advocate made regulations which varied

*delete as appropriate

- * (a) Tables A, B and C of Schedule 2 to the Debtors (Scotland) Act 1987 (the statutory deduction tables)
- * (b) The percentage specified in subsection (5) and (6)(a)(ii) of section 49 of the Debtors (Scotland) Act 1987 to (specify change)
- * (c) The sum specified in subsection 4(b) of section 63 of the Debtors (Scotland) Act 1987 to £

The regulations come into operation on (date)

Date (Signed).....
 Sheriff Clerk

- (i) This intimation should be considered carefully by the employer as the variation(s) made by regulations referred to may affect the sum to be deducted by him under the conjoined arrestment order (see further section 69(1), (2) and (3) of the Debtors (Scotland) Act 1987).
- (ii) The sheriff clerk must attach to this intimation the statutory deduction tables as revised where these have been varied by the regulations.

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

Rule 58(1)(b)

— *Intimation to employer under section 63(8)*

- The employer : *(name and address)*
- The debtor (employee) : *(name and address)*
- The sheriff clerk : *(name and address)*
- Date of conjoined arrestment order : *(specify)*
- Date order served on employer : *(specify)*
- Date of order varying the conjoined arrestment order : *(specify)*
- Date varied order served on employer : *(specify)*

To the employer—Take note that on (date) the small maintenance limits mentioned in section 351(2) of the Income and Corporation Taxes Act 1988 were changed to (specify change):—

The changes come into operation on *(date)*

Date *(Signed)*.....
Sheriff Clerk

- (i) This intimation should be considered carefully by the employer as the change made may affect the sum to be deducted by him under the conjoined arrestment order.
- (ii) The sheriff clerk must attach to this intimation a copy of section 351(2) of the Income and Corporation Taxes Act 1988.

FORM 54 *The Debtors (Scotland) Act 1987, Section 65(1)*

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

Rule 59(1)

Sheriff Court

APPLICATION FOR DETERMINATION OF DISPUTE IN OPERATION OF CONJOINED ARRESTMENT ORDER

(1) [Form box for name and address]

..... 19..... (Court Ref No.) APPLICANT

*delete as appropriate

A. The applicant is
*(a) The debtor
*(b) A creditor whose debt is being enforced by the conjoined arrestment order
*(c) The employer
*(d) The sheriff clerk

(1) Insert name and address

B. Other persons having an interest are
*(e) The debtor (1)
*(f) (Other) creditors whose debts are being enforced by the conjoined arrestment order (1)
*(g) The employer (1)
*(h) The sheriff clerk (1)

C. A conjoined arrestment order against the earnings of the debtor (1) was made on (date) by the sheriff at (place)

D. The following dispute as to the operation of the conjoined arrestment order requires to be determined (specify nature of the dispute)

This application is made under section 65(1) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to those persons stated above as having an interest other than himself.
3. To make an order determining the dispute (specify order sought).
*4. To order the reimbursement by (name person) to (name person) of £ with interest thereon at the rate of (specify rate) from (specify date) or such other date as the court may consider appropriate.
*5. To order the payment by (name person) to (name person) of £ with interest thereon at the rate of (specify rate) from (specify date) or such other date as the court may consider appropriate.
6. To award expenses (if competent).

Date19..... (Signed)

APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 55 *The Debtors (Scotland) Act 1987, Section 65(7)*

Rule 60(1)

Sheriff Court

APPLICATION FOR PAYMENT BY CREDITOR TO DEBTOR OF PENALTY SUM (CONJOINED ARRESTMENT ORDER)

(1)

..... 19.....
(Court Ref No.)
APPLICANT

A.

The applicant is The debtor

(1) Insert name and address

B.

Other persons having an interest are The creditor (1)
--

C.

A conjoined arrestment order against the earnings of the debtor was made on <i>(date)</i> by the sheriff at <i>(place)</i>
--

(2) Insert name
*delete as appropriate

D.

<p>*An ordinary debt/*current maintenance due to the said creditor (2) was included in the conjoined arrestment order. The creditor failed to intimate to the sheriff clerk <i>(place)</i> that:-</p> <p>*<i>(a)</i> The debt recoverable had been paid or otherwise extinguished. *<i>(b)</i> The debt had ceased to be enforceable by diligence. *<i>(c)</i> The obligation to pay the current maintenance had ceased. *<i>(d)</i> The obligation to pay the current maintenance had ceased to be enforceable by diligence.</p> <p><i>(Specify when and how (a), (b), (c) or (d) occurred):-</i> The debtor overpaid £ as a result of this failure. <i>(Give details of the calculation of this sum and grounds for seeking the sum sought from the creditor):-</i></p>
--

This application is made under section 65(7) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to the creditor.
 3. To order the creditor to pay to the debtor £ *(specify amount requested).*
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

FORM 56 *The Debtors (Scotland) Act 1987, Section 66(1)(a)*

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

Rule 61(1)

Sheriff Court

APPLICATION FOR RECALL OF CONJOINED ARRESTMENT ORDER (1) 19.....
 (Court Ref No.) APPLICANT

*delete as appropriate

A. The applicant is

- *(a) The debtor
- *(b) A creditor whose debt is being enforced by the conjoined arrestment order
- *(c) The person on whom a copy of the conjoined arrestment order or an order varying the order was served under section 60(7) or 62(6) of the Act
- *(d) The sheriff clerk
- *(e) An interim/permanent trustee of the debtor

(1) Insert name and address

B. Other persons having an interest are

- *(f) The debtor (1)
- *(g) (Other) creditors whose debts are being enforced under the conjoined arrestment order (1)
- *(h) (Other) persons on whom a copy of the conjoined arrestment order or an order varying the order was served under section 60(7) or 62(6) of the Act (including the employer) (1)
- *(i) The sheriff clerk (1)
- *(j) An interim/permanent trustee of the debtor (1)

(2) Insert name

C. A conjoined arrestment order against the earnings of the debtor (2) was made on (date) by the sheriff at (place)

D.

- *(a) The conjoined arrestment order is invalid. (Specify why it is claimed to be invalid):-
- *(b) All the ordinary debts being enforced by the conjoined arrestment order have been paid or otherwise extinguished or have ceased to be enforceable by diligence and all the obligations to pay current maintenance being so enforced have ceased or have ceased to be enforceable by diligence. (Specify when and how these matters occurred):-
- *(c) The debtor's estate has been sequestrated (specify date of sequestration)

This application is made under section 66(1)(a) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to those persons stated above as having an interest other than himself.
 - *3. To dispense with a hearing and intimation.
 4. To recall the conjoined arrestment order.
 - *5. To make the following consequential order (specify order sought).
 6. To award expenses (if competent).

Date19..... (Signed)
 APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 57 The Debtors (Scotland) Act 1987, Section 66(1)(b)

Rule 62(1)

Sheriff Court

APPLICATION FOR
RECALL OF CONJOINED
ARRESTMENT ORDER
(BY ALL CREDITORS
WHOSE DEBTS ARE
BEING ENFORCED BY
IT)

(1)

..... 19.....
(Court Ref No.)
APPLICANT

A.

The applicants are The creditors whose debts are being enforced by a conjoined arrestment order (1)
--

(1) Insert name and address

B.

Other persons having an interest are The debtor (1)
--

(2) Insert name

C.

A conjoined arrestment order against the earnings of the debtor (2) was made on (date) by the sheriff at (place)
--

D.

The conjoined arrestment order should be recalled (specify reasons for application and any consequential order sought)
--

This application is made under section 66(1)(b) of the Debtors (Scotland) Act 1987.

- E. The applicants ask the court:-
1. To order such intimation (if any) and further procedure that the court considers appropriate.
 2. To recall the conjoined arrestment order.
 3. To make the following consequential order (specify order sought).
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL
ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

FORM 58 The Debtors (Scotland) Act 1987, Section 66(4)

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

Rule 63(1)

Sheriff Court

APPLICATION FOR VARIATION OF CONJOINED ARRESTMENT ORDER

(1)

..... 19.....
(Court Ref No.)
APPLICANT

*delete as appropriate

A. The applicant is

- *(a) The debtor
- *(b) A creditor whose debt is being enforced by the conjoined arrestment order
- *(c) The employer
- *(d) The sheriff clerk

(1) Insert name and address

B. Other persons having an interest are

- *(e) The debtor (1)
- *(f) (Other) creditors whose debts are being enforced by the conjoined arrestment order (1)
- *(g) The employer (1)
- *(h) The sheriff clerk (1)

(2) insert name

C. A conjoined arrestment order against the earnings of the debtor (2) was made on (date) by the sheriff at (place)

D.

- *(a) An ordinary debt being enforced by the conjoined arrestment order has been paid or otherwise extinguished or has ceased to be enforceable by diligence (give details of when and how this occurred):-
- *(b) An order or decree has come into effect which varies/supercedes/recalls a maintenance order being enforced by the conjoined arrestment order (give details of the order or decree which varied, superceded or recalled the maintenance order):-
- *(c) An obligation to pay maintenance being enforced by the conjoined arrestment order has ceased or has ceased to be enforceable in Scotland (give details of when and how this occurred):-

The conjoined arrestment order should accordingly be varied (specify variation required):-

This application is made under section 66(4) of the Debtors (Scotland) Act 1987.

- E. The applicant asks the court:-
1. To fix a hearing.
 2. To order the sheriff clerk to intimate this application and the date of the hearing to the applicant and to those persons stated above as having an interest other than himself.
 3. To vary the conjoined arrestment order as requested.
 4. To award expenses (if competent).

Date19..... (Signed)
APPLICANT

IF YOU WISH FURTHER ADVICE CONTACT ANY CITIZENS ADVICE BUREAU/LOCAL ADVICE CENTRE/SHERIFF CLERK OR SOLICITOR

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

FORM 59

Rule 65(3)(b)

SHERIFF COURT:

Notice of Service of an Order Varying a Conjoined Arrestment Order under Section 66 of the Debtors (Scotland) Act 1987

To *(Name and address of persons upon whom service is made)*

- You are served with (1) a copy of an order dated _____ varying a conjoined arrestment order made on _____
- (2) a copy of the conjoined arrestment order as varied
- (3) a copy of subsections (1) to (6) of section 63 of the Debtors (Scotland) Act 1987

The variation comes into effect seven days after service of the copy order on the employer and the conjoined arrestment order as varied remains in effect until a copy of an order recalling it is served on the employer under section 66(7) of the Debtors (Scotland) Act 1987 or the debtor ceases to be employed by the employer. The employer should notify the sheriff clerk in writing immediately if the debtor ceases to be employed by him.

Sheriff Clerk
Sheriff Clerk's Office
(Address and date)

Officer of Court
(Name, designation and address)

FORM 60 *Certificate of execution of earnings arrestment schedule/current maintenance arrestment schedule*

Rule 67

(Place and date)

I _____ certify that on *(date)* I served the foregoing earnings arrestment schedule/current maintenance arrestment schedule on *(name and address of employer)* employer of the debtor *(name and address of debtor)*. This I did by *(state method of service)*.

Officer of Court
(Name, designation and address)

FORM 61 SUMMARY WARRANT FOR THE RECOVERY OF

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

Rule 68(1)

1. Rates under the Local Government (Scotland) Act 1947, section 247.
2. Community charge under the Abolition of Domestic Rates Etc. (Scotland) Act 1987, Schedule 2, Paragraph 7.

(Place and Date)

The sheriff having considered the application dated _____ by *(name and address of applicant)* along with certificate produced and it being stated in the application that an action has not been commenced for the recovery of any amount due Grants a Summary Warrant authorising the recovery of the amount remaining due and unpaid by each person specified in the application along with a surcharge of 10 per cent (or such percentage as may be prescribed) of that amount by:-

- (a) a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
- (b) an earnings arrestment;
- (c) an arrestment and action of furthcoming or sale.

Further Grants Warrant to *(name and address)* _____ sheriff officer to enter premises in the occupancy of any person specified in the application in order to execute a poinding or sale or the removal and sale of the poinded articles and for any of those purposes to open shut and lockfast places.

FORM 62SUMMARY WARRANT FOR THE RECOVERY OF

Rule 68(2)

1. Rates under the Local Government (Scotland) Act 1947, section 250.

(Place and Date)

The sheriff having considered the application dated _____ by *(name and address of applicant)* and being satisfied that the person specified in the application has removed/is about to remove/that there is reason to suspect his removal from the land and heritages referred to in the application Grants a Summary Warrant authorising the recovery of the amount remaining due and unpaid by such person by:-

- (a) a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
- (b) an earnings arrestment;
- (c) an arrestment and action of furthcoming or sale.

Further Grants Warrant to *(name and address)* _____ sheriff officer to enter premises in the occupancy of the person specified in the application in order to execute a poinding or sale or the removal and sale of the poinded articles and for any of those purposes to open shut and lockfast places.

FORM 63SUMMARY WARRANT FOR THE RECOVERY OF

Rule 68(3)

1. Tax under the Taxes Management Act 1970, section 63 etc.
2. Car Tax under the Car Tax Act 1983 Schedule 1, paragraph 3(3).
3. Value Added Tax under Value Added Tax Act 1983 Schedule 7, paragraph 6(5).

(Place and Date)

The sheriff having considered the application dated _____ by *(name and address of applicant)* along with certificate produced _____ Grants a Summary Warrant authorising the recovery of the amount remaining due and unpaid by each person specified in the application by:-

- (a) a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
- (b) an earnings arrestment;
- (c) an arrestment and action of furthcoming or sale.

Further Grants Warrant to *(name and address)* _____ sheriff officer to enter premises in the occupancy of any person specified in the application in order to execute a poinding or sale or the removal and sale of the poinded articles and for any of those purposes to open shut and lockfast places.

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FORM 64WARRANT FOR INTIMATION

Rule 73(1)

*delete as appropriate
†state other person(s) as the Sheriff may direct

(Place and date)

The sheriff grants warrant to intimate the foregoing application and this warrant to the applicant, to the other person(s) stated in the application as having an interest [or to the therein designed] and *to the sheriff officer/messenger-at-arms named in the application.†

Fixes as a hearing (*date*) at (*time*) within the Sheriff Court House (*address of court*).

1. *Requires the applicant* to appear or be represented at the hearing to show why the application should be granted.
2. *Requires the other persons to whom intimation is given* to appear or be represented at the hearing if they intend to oppose the application.
- *3. *Directs the sheriff officer/messenger-at-arms* to send a copy of the poiding schedule to the sheriff clerk before the date of the hearing.

Sheriff

To (*name of person receiving intimation*)

The application and warrant is hereby intimated to you.

Sheriff Clerk Depute
Date

TAKE NOTE

To the applicant

If you fail to appear or be represented at the hearing fixed your application may be dismissed.

To the other persons to whom intimation is given

If you fail to appear or be represented at the hearing fixed the application may be dealt with in your absence.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt makes provision for procedures in the sheriff court under the Debtors (Scotland) Act 1987 for:—

- (a) applications relating to time to pay directions;
- (b) applications for time to pay orders and orders relating thereto;
- (c) poidings and warrant sales and orders relating thereto; and

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- (d) earnings arrestments, current maintenance and conjoined arrestment orders and orders relating thereto.