
STATUTORY INSTRUMENTS

1992 No. 272

Act of Sederunt (Judicial Factors Rules) 1992

PART II

**ADDITIONAL RULES APPLYING TO FACTORS APPOINTED
UNDER SECTION 11A OF THE JUDICIAL FACTORS
(SCOTLAND) ACT 1889 ON ESTATES OF DECEASED PERSONS**

Disposal of surplus estate

35.—(1) Where after payment of the creditors, there is a surplus, the factor shall lodge with the Accountant a statement of the amount of the surplus, of the parties claiming that surplus and their respective grounds of claim, and of those parties who, in the opinion of the factor, are entitled to the surplus and the reasons therefor.

(2) The Accountant shall prepare a written opinion on the factor's statement lodged under paragraph (1) of this rule and issue that opinion to the factor.

(3) On receipt of the Accountant's opinion under paragraph (2) of this rule, the factor shall—

- (a) lodge it in process together with the statement prepared under paragraph (1) of this rule;
- (b) give notice by first class post or, if abroad, by air mail to each party claiming an interest or apparently entitled to any part of the estate, that—
 - (i) the factor's statement and the Accountant's opinion have been lodged in process;
 - (ii) should any such party desire to lodge objections to the statement he shall lodge with the sheriff clerk a notice of such objections within 28 days of the date of the posting of the notice by the factor.

(4) On expiry of the time for lodging objections, the sheriff shall consider the statement, opinion, and any objections and, after such procedure as he considers appropriate, shall—

- (a) determine the party or parties entitled to the surplus estate and direct the factors to make payment accordingly; or
- (b) if he considers that it is desirable that the factor should continue to administer the surplus estate, direct accordingly.

(5) Where the sheriff makes an order under paragraph (4)(a) of this rule, the factor shall pay over the surplus accordingly.