

REGISTRAR'S CIRCULAR NO: 7 OF 1951

POUNDAGE AND AUCTIONEER'S FEES ON COURT SALES.

I quote below the text of a recent Audit Query and my reply thereto :-

Q. Before the new Supreme Courts Rules came into force, the following fees were charged for Order for, or Warrant of, Sale :-

(a) When addressed to the Court bailiff and the sale was conducted by him the poundage fee prescribed under item 7 of the Schedule to the Court Fees Enactment Cap.12 was collected.

(b) When addressed to a licensed auctioneer a fee of \$1.50 was collected under item 23. This fee was also collected on all orders for, or warrants of, sale addressed to the Court bailiff but licensed auctioneers were employed for conducting the sale. Under the present rules it would appear that when an order for, or warrant of, sale is addressed to the Court bailiff or licensed auctioneer and the sale is conducted by either of them the poundage fee prescribed under item 23 of the Supreme Court Rule 9 or under item 19 of the 1948 Subordinate Courts Rule No. 1 as the case may be should be collected. At least in one place it was found that where the sale was conducted by a licensed auctioneer the poundage fee prescribed has not been collected. In another place a fee of \$4/- under item 16 is collected in addition to the poundage fees. It will be observed that in case where the sales are conducted by licensed auctioneers the poundage fee is collected in addition to the usual auctioneer's commission charges. This additional charge may cause undue hardship on the defendant but I do not know if that was the intention. I should be grateful for your comments.

A. The correct steps in my opinion are these :-

First to charge \$4/- (or the appropriate fee in the Lower Courts) on the order for or warrant of sale, like any other Order. This will guard against the order or warrant failing to lead up to an actual sale and secondly, when the sale does take place, to charge poundage under this item. In so charging the fee already collected should be given credit for as one document cannot be charged under two heads. The auctioneer's commission is also chargeable in addition.

R. V. R.

AG. REGISTRAR,

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Supreme Court,
Federation of Malaya.
P.O. Box 1060.

Kuala Lumpur, 21st August, 1951
(RBC.22/50) M/T.K.