

SCHEDULE 3

Article 4

MINOR AND CONSEQUENTIAL AMENDMENTS

**Act of Sederunt (Proceedings in the Sheriff Court under the Debtors (Scotland) Act 1987) 1988(1) (S.I.1988/2013)**

1.—(1) In rule 6 (applications for variation or recall of time to pay orders, poindings or advertisements)—

- (a) in the heading for “poindings” substitute “attachments”; and
- (b) in paragraph (1) for “a poinding” substitute “an attachment”.

(2) In the Schedule (Forms)—

- (a) in form 2 (application for a time to pay order), in Part C—
  - (i) for “*poinding*” substitute “*attachment*”;
  - (ii) in crave 2, for “poinding” substitute “attachment”;
  - (iii) for crave 4, substitute—

“4. To order that no further steps shall be taken by the creditor or the sheriff officer in the diligence concerned, other than in the case of an attachment making a report of the attachment under section 17 of the Debt Arrangement and Attachment (Scotland) Act 2002, or applying for an order under sections 17(1), 20(1), and 21(10) of that Act.”; and

(iv) in the extract from section 5(4) and (5) of the Debtors (Scotland) Act—

(aa) in subsection (4) for paragraphs (e) and (ee) substitute—

“(e) in relation to a debt including any sum due to—

- (i) a rating authority for payment of rates;
- (ii) a regional or islands council for the payment of any community charge, community water charge, council tax, or council water charge;
- (iii) a collecting authority (within the meaning of section 79 of the Local Government etc. (Scotland) Act 1994) in respect of any charges payable to them by virtue of that section; or
- (iv) a regional or islands council for payment of any amount payable as a civil penalty within the meaning of subsection (9) below.”; and

(bb) in subsection (5), omit paragraph (a);

(b) in form 3 (application for variation or recall of a time to pay order, arrestment and poinding)—

- (i) in the heading, for “POINDING” substitute “ATTACHMENT”;
- (ii) in section 3, in paragraph (c) for “poinding” or “*poinding*” in each case where either occurs substitute “attachment” or “*attachment*” as appropriate; and
- (iii) in section 4, in paragraph 3 for “poinding” substitute “attachment”;

(c) in form 43 (application for a conjoined arrestment order), in section 5 for “poinding” substitute “attachment”; and

(d) in form 64 (warrant for intimation), in section 3, for “poinding” substitute “attachment”.

*Status: This is the original version (as it was originally made).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

**Act of Sederunt (Form of Charge for Payment) 1988(2) (S.I. 1988/2059)**

2. In the Schedule (form of charge for payment of money), for “poining and sale” substitute “attachment and auction”.

**Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) 1991(3) (S.I. 1991/1397)**

3. In rule 30 (dealings in goods poinded or sold by virtue of diligence)–
- (a) in the heading, for “poinded” substitute “attached”; and
  - (b) in paragraph (a), for “poinded” substitute “attached”.

**Act of Sederunt (Sheriff Court Ordinary Cause Rules) 1993(4) (S.I. 1993/1956)**

4. In rule 33.67 (form of applications), in paragraph (2) for “poining” substitute “attachment”.

**Act of Sederunt (Rules of the Court of Session 1994) 1994(5) (S.I. 1994/1443)**

5. In rule 16.15 (forms for diligence), in section (1) for paragraph (j) substitute–
- “(j) in the case of an attachment, a schedule in form 3, and a report of attachment in form 8, in Appendix 1 of Schedule 1 to the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002.”.

**Act of Sederunt (Sheriff Court Bankruptcy Rules 1996)(6) (S.I. 1996/2507)**

6. In the Schedule (Sheriff Court Bankruptcy Rules) in Appendix 1 (forms), in form 2 (form of debtor’s petition (without concurrence of qualified creditor(s) under the Bankruptcy (Scotland) Act 1985) for “poining” substitute “attachment (or any attempt to attach)”.

**Act of Sederunt (Child Care and Maintenance Rules) 1997(7) (S.I. 1997/291)**

7. In rule 5.43 (enforcement of registered order)–
- (a) for “poind” substitute “attach”; and
  - (b) for “sale in respect of a poining” substitute “auction in respect of an attachment”.

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(2) S.I. 1988/2059; revoked so far as it applied to the Court of Session by S.I. 1994/1443.

(3) S.I. 1991/1397; amended by S.I. 1998/2636 and 1999/678, and by S.S.I. 2000/20.

(4) S.I. 1993/1956; amended by S.I. 1996/2167, rule 6 substituted by S.S.I. 2000/239, and repealed in part by S.S.I. 2002/132 and 133.

(5) S.I. 1994/1443; relevant amending instrument is S.I. 1998/2637.

(6) S.I. 1996/2507.

(7) S.I. 1997/291; amended by S.I. 1998/1993 and 2130, and by S.S.I. 2000/388.