

SCHEDULE 5
MINOR AND CONSEQUENTIAL AMENDMENTS

The Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)

- 30 (1) The 2002 Act is amended as follows.
- (2) In section 10(3) (competence of attachment), for paragraphs (a) and (b) substitute—
- “(a) the debtor has been charged to pay the debt;
 - (b) the period for payment specified in the charge has expired without payment being made; and
 - (c) where the debtor is an individual, the creditor has, no earlier than 12 weeks before taking any steps to execute the attachment, provided the debtor with a debt advice and information package.”.
- (3) In section 11 (articles exempt from attachment)—
- (a) in subsection (1), after paragraph (d) insert—
“(e) any money.”; and
 - (b) after subsection (2) insert—
“(3) In subsection (1)(e) above, “money” has the same meaning as in section 175 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).”.
- (4) After section 13 insert—

“13A Schedule of attachment

- (1) The officer must, immediately after executing an attachment, complete a schedule such as is mentioned in subsection (2) below (in this section, the “attachment schedule”).
- (2) An attachment schedule—
 - (a) must be in (or as nearly as may be in) the form prescribed by Act of Sederunt; and
 - (b) must specify—
 - (i) the articles attached; and
 - (ii) their value, so far as ascertainable.
- (3) The officer must—
 - (a) give a copy of the attachment schedule to the debtor; or
 - (b) where it is not practicable to do so—
 - (i) give a copy of the schedule to a person present at the place where the attachment was executed; or
 - (ii) where there is no such person, leave a copy of it at that place.
- (4) An attachment is executed on the day on which the officer complies with subsection (3) above.”.
- (5) In section 14 (procedure for attachment of articles kept outwith dwellinghouses), for “19” substitute “19A”.
- (6) In section 15, the title to that section becomes “Valuation”.

Status: This is the original version (as it was originally enacted).

- (7) In section 28(1)(b) (restriction on alteration of arrangements for auctions), for “19” substitute “19A”.
- (8) In section 32 (report of auction)—
- (a) in subsection (2)(a), after sub-paragraph (iii) insert—
 - “(iiiia) any sums paid by the debtor to account of the sum recoverable;”;
 - (b) in subsection (4), for the words from “Court” to the end substitute “Scottish Civil Enforcement Commission under section 67(1)(b) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).”.
- (9) In section 33 (audit of report of auction)—
- (a) in subsection (7), for the words from “providing” to the end substitute—
 - “(a) giving—
 - (i) the debtor;
 - (ii) the creditor; and
 - (iii) any third party who claims ownership (whether alone or in common with the debtor) of any attached article,
 - an opportunity to make representations; or
 - (b) holding a hearing.”; and
 - (b) in subsection (8), for “debtor” substitute “persons mentioned in subsection (7)(a) above.”.
- (10) In section 34 (articles belonging to third parties), in subsection (1)(b)(ii), for “so satisfied” substitute “satisfied that the claim is valid”.
- (11) In section 40 (recovery from debtor of expenses of attachment)—
- (a) in subsection (3)—
 - (i) in paragraph (a), for “9(2)(a), (d) or (e)” substitute “9(2)(d) or (10)(b)”;
 - (ii) in paragraph (c), for “presentation of a petition for an administration order” substitute “appointment of an administrator”;
 - (b) in subsection (4)(b), for “administration order” substitute “appointment”.
- (12) In section 41(2)(a) (ascription of sums recovered by attachment), after sub-paragraph (i) insert—
- “(ia) any previous interim attachment the expenses of which are chargeable against and recoverable from the debtor under section 9Q(1)(a) of this Act;”.
- (13) In section 45 (interpretation of Parts 2, 3 and 4 of that Act), in the definition of “officer”, for the words from “the” where it first occurs to the end substitute “a judicial officer appointed by a creditor”.
- (14) In section 60(2) (application of the Act to sequestration for rent and arrestment) for the words “such a” substitute “the landlord’s”.
- (15) In schedule 1, in paragraph 1, before “2” insert “1A,”.