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".

(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—

"(iiia) any sums paid by the debtor to account of the sum recoverable;"; and

(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)"; and

(ii) in paragraph (c), for "presentation of a petition for an administration order" substitute "appointment of an administrator"; and

(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,".