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SCHEDULES

SCHEDULE 2

CONSEQUENTIAL PROVISIONS

PART I

AMENDMENTS CONSEQUENTIAL ON THE REPEAL OF THE BANKRUPTCY ACTS 1883, 1890 AND 1913

City of London Municipal Elections Act 1849 (c.xciv)

1 After section 8A of the City of London Municipal Elections Act 1849 there shall be inserted the following section—

“8B Disqualification in case of bankruptcy

- (1) A person who is adjudged bankrupt shall be disqualified for being elected to or holding any of the following offices in the City of London, namely, Lord Mayor, alderman and common councilman.
- (2) Where a person is disqualified under this section, the disqualification shall cease—
 - (a) on his discharge from bankruptcy; or
 - (b) if the bankruptcy order is previously annulled, on the date of its annulment.
- (3) Where a person is adjudged bankrupt while holding any office mentioned in this section, his office shall immediately become vacant.”

District Courts (Scotland) Act 1975 (c. 20)

2 After section 13 of the District Courts (Scotland) Act 1975 there shall be inserted the following section—

“13A Disqualification in case of sequestration or bankruptcy

- (1) Subject to subsections (2) and (3) below, a person shall be disqualified for being appointed or acting as a justice of the peace if he is a person whose estate has been sequestrated in Scotland or who has been adjudged bankrupt elsewhere than in Scotland.
- (2) Where a person is disqualified under this section by reason of his estate having been sequestrated, the disqualification shall cease if and when—
 - (a) the award of sequestration is recalled or reduced; or

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(b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985.

- (3) Where a person is disqualified under this section by reason of having been adjudged bankrupt, the disqualification shall cease if and when—
- (a) the adjudication of bankruptcy against him is annulled; or
 - (b) he is discharged.”.

Justices of the Peace Act 1979 (c. 55)

3 After section 63 of the Justices of the Peace Act 1979 there shall be inserted the following section—

“63A Disqualification in case of bankruptcy

- (1) A person who is adjudged bankrupt shall be disqualified for being appointed or acting as a justice of the peace.
- (2) Where a person is disqualified under this section, the disqualification shall cease—
 - (a) on his discharge from bankruptcy; or
 - (b) if the bankruptcy order is previously annulled, on the date of its annulment.”

Supreme Court Act 1981 (c. 54)

4 After section 138 of the Supreme Court Act 1981 there shall be inserted the following sections—

“138A Sales under executions

- (1) Where any goods seized under a writ of execution issued from the High Court are to be sold for a sum exceeding £20 (including legal incidental expenses), the sale shall, unless the court otherwise orders, be made by public auction, and not by bill of sale or private contract, and shall be publicly advertised by the sheriff on, and during 3 days preceding, the day of sale.
- (2) Where any goods are seized under a writ of execution issued from the High Court and the sheriff has notice of another execution or other executions, the court shall not consider an application for leave to sell privately until the prescribed notice has been given to the other execution creditor or creditors, who may appear before the court and be heard on the application.

138B Protection of officer selling goods under execution

- (1) Where any goods in the possession of an execution debtor at the time of seizure by a sheriff or other officer charged with the enforcement of a writ of execution issued from the High Court are sold by the sheriff or other officer without any claims having been made to them—
 - (a) the purchaser of the goods so sold shall acquire a good title to those goods; and
 - (b) no person shall be entitled to recover against the sheriff or other officer, or anyone lawfully acting under his authority, for any sale

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- of the goods or for paying over the proceeds prior to the receipt of a claim to the goods,
- unless it is proved that the person from whom recovery is sought had notice, or might by making reasonable enquiry have ascertained, that the goods were not the property of the execution debtor.
- (2) Nothing in this section shall affect the right of any lawful claimant (that is to say, any person who proves that at the time of sale he had a title to any goods so seized and sold) to any remedy to which he may be entitled against any person other than the sheriff or other officer.
- (3) The provisions of this section have effect subject to those of sections 183, 184 and 346 of the Insolvency Act 1986.”