

SCHEDULE 1

RULES FOR APPLICATIONS IN THE SHERIFF COURT UNDER THE DEBT ARRANGEMENT AND ATTACHMENT (SCOTLAND) ACT 2002

CHAPTER 2

ATTACHMENT: GENERAL PROVISIONS

Procedure for executing attachment

8.—(1) When executing an attachment the officer of court shall be accompanied by another person who shall witness the whole proceedings.

(2) Before attaching any article the officer of court shall—

(a) show to every person present—

(i) the decree or document of debt (or an extract of the decree or document) authorising the attachment; and

(ii) where the decree or document of debt is not a summary warrant, the certificate of execution of the charge to which that decree or document of debt relates;

(b) demand payment of the sum recoverable from the debtor (or if the debtor is not present, any other person who appears to the officer to be authorised to act for the debtor); and

(c) make enquiries as to the ownership in common of that article (and in particular ownership in common of that article by the debtor and any other person).

(3) The officer of court shall prepare a schedule (the “attachment schedule”) in form 3.

(4) The officer of court and the witness shall sign the attachment schedule.

(5) The officer of court shall—

(a) deliver a copy of the signed attachment schedule to any person then in possession of the articles or leave it at the premises occupied by that person;

(b) if the person then in possession of the articles is not the debtor and it is reasonably practicable to do so, serve a copy of the signed attachment schedule by post on the debtor;

(c) inform the debtor (if present) of the debtor’s right to redeem attached articles under sections 18(1) or 56(1);

(d) inform any person present who claims to own any attached article in common with the debtor of the right to—

(i) make a claim for the purposes of section 35(2)(a);

(ii) apply for an order under section 35(2)(b); and

(iii) pay the value of the debtor’s interest in the attached article in terms of section 35(2)(c); and

(e) where, after making enquiries of any person present, it appears that the article attached is a mobile home which is the only or principal residence of a person other than the debtor, inform the debtor and that person, by leaving in the mobile home a copy of the attachment schedule, of their right to apply for release of the mobile home from attachment under section 16(1).