

SCHEDULES

SCHEDULE 7

PART I

CONSEQUENTIAL AMENDMENTS

The Judicial Factors (Scotland) Act 1889 (c.39)

- 3 In section 2, at the beginning there shall be inserted the words " Without prejudice
to section 1(2) of the Bankruptcy (Scotland) Act 1985 (Accountant of Court to be
Accountant in Bankruptcy), "
4 After section 11 there shall be inserted the following sections—

“11A Application for judicial factor on estate of person deceased.

- (1) It shall be competent to one or more creditors of parties deceased, or to persons having an interest in the succession of such parties, in the event of the deceased having left no settlement appointing trustees or other parties having power to manage his estate or part thereof, or in the event of such parties not accepting or acting, to apply by summary petition to the Court of Session or to the sheriff of the sheriffdom within which the deceased resided or carried on business during the year immediately preceding the date of the petition, or within which heritage belonging to the deceased at the time of his death is situated, for the appointment of a judicial factor.
- (2) After such intimation of the petition to the creditors of the deceased, and other persons interested, as may be considered necessary, and after hearing parties, the Court or sheriff may appoint such factor, who shall administer the estate subject to the supervision of the accountant in accordance with this Act and the Judicial Factors (Scotland) Act 1880 and relative acts of sederunt; and, if the deceased's estate is absolutely insolvent within the meaning of section 73(2) of the Bankruptcy (Scotland) Act 1985, section 51 of, and Schedule 1 to, that Act shall apply as if for references to—
- (a) the interim trustee or permanent trustee there were substituted references to the judicial factor; and
 - (b) the date of sequestration there were substituted references to the date of the judicial factor's appointment.

11B Judicial factor's duties to be regulated by act of sederunt.

- The Court of Session shall have full power to regulate by act of sederunt—
- (a) the caution to be found by a factor appointed under section 11A above ;

Status: This is the original version (as it was originally enacted).

- (b) the mode in which he shall proceed in realising and dividing the funds, and otherwise in the discharge of his duties ; and
- (c) any other matter which they may deem necessary.”