

# Bankruptcy and Debt Advice (Scotland) Bill

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## Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated during Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Debtor contribution orders**

1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 15

#### **Length of contribution period in respect of debtor's income and estate**

67, 8, 70

#### **Deductions from earnings and other income**

12, 12A, 14, 61

#### **Discharge of debtor**

72, 13, 21, 22, 23, 24, 71, 25, 26, 27, 28, 29, 30, 75, 31, 39, 78, 55, 91, 92, 93, 94, 95

##### *Notes on amendments in this group*

Amendment 72 pre-empts amendment 13

Amendments 30 and 75 are direct alternatives

Amendment 39 pre-empts amendment 78

#### **Sequestration and trust deeds where debtor has few assets**

68, 16, 17, 69, 18, 58

##### *Notes on amendments in this group*

Amendment 68 pre-empts amendment 16

#### **Moratorium on diligence**

19

#### **Debtor's bank accounts**

20, 20A, 73, 21A, 74, 66

### **Minor and technical**

32, 76, 33, 77, 40, 41, 42, 43, 44, 51, 52, 53, 54, 60, 62, 63, 64

#### *Notes on amendments in this group*

Amendment 40 is pre-empted by amendment 79 in group “Removal of interim recall of sequestration”

Amendment 43 is pre-empted by amendment 81 in group “Removal of interim recall of sequestration”

### **Records**

34, 35, 36, 37, 38

### **Removal of interim recall of sequestration**

79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90

#### *Notes on amendments in this group*

Amendment 79 pre-empts amendment 40 in group “Minor and Technical”

Amendment 81 pre-empts amendment 43 in group “Minor and Technical”

### **Accountant in Bankruptcy referrals to court**

45, 46, 56

### **Bankruptcy restrictions orders**

47, 48, 49, 50

### **Debt arrangement schemes: extension to non-natural persons and procedure**

57, 65

### **Voluntary sequestration for partnerships**

59

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**Amendments in debating order**

**Debtor contribution orders**

**Fergus Ewing**

- 1 In section 4, page 4, line 4, leave out <may> and insert <must>

**Fergus Ewing**

- 2 In section 4, page 4, line 10, at end insert—

<( ) In a case referred to in subsection (1)(b), the trustee must send initial proposals for the debtor's contribution before the end of the period of 6 weeks beginning with the date of sequestration.>

**Fergus Ewing**

- 3 In section 4, page 4, line 11, leave out <In deciding whether to make> and insert <Before making>

**Fergus Ewing**

- 4 In section 4, page 4, line 13, at end insert—

<( ) A debtor contribution order may fix the amount of the debtor's contribution as zero.>

**Fergus Ewing**

- 5 In section 4, page 4, line 25, at end insert—

<( ) A debtor contribution order must not take effect on a date before the expiry of the period of 14 days beginning with the day of notification of the order.>

**Fergus Ewing**

- 6 In section 4, page 4, line 28, after <contribution> insert <(if not zero)>

**Fergus Ewing**

- 7 In section 4, page 4, line 38, leave out <the debtor's contribution> and insert <an amount required under the debtor contribution order>

**Fergus Ewing**

- 9 In section 4, page 5, leave out lines 5 and 6 and insert—

<( ) The Accountant in Bankruptcy must, when making an order under section 32A—

(a) determine the date of the first payment, or

(b) in a case where the debtor's contribution is fixed as zero, determine the date which is to be deemed as the date of the first payment under the order.>

**Fergus Ewing**

- 10 In section 4, page 5, line 6, at end insert—

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### <Debtor contribution order: review and appeal

- (1) The debtor, the trustee or any other interested person may apply to the Accountant in Bankruptcy for a review of a debtor contribution order made by the Accountant in Bankruptcy under section 32A.
- (2) An application under subsection (1) must be made before the expiry of the period of 14 days beginning with the day on which the debtor contribution order is made.
- (3) If an application under subsection (1) is made, the debtor contribution order is suspended until the determination of that review by the Accountant in Bankruptcy.
- (4) If an application for a review under subsection (1) is made, the Accountant in Bankruptcy must—
  - (a) take into account any representations made by an interested person before the expiry of the period of 21 days beginning with the day on which the application is made, and
  - (b) confirm, amend or revoke the debtor contribution order before the expiry of the period of 28 days beginning with the day on which the application is made.
- (5) The trustee or the debtor may appeal to the sheriff against any decision of the Accountant in Bankruptcy under subsection (4)(b) before the expiry of the period of 14 days beginning with the date of the decision.>

### **Fergus Ewing**

- 11** In section 4, page 5, line 8, leave out <the debtor's contribution> and insert <any debtor's contribution which is not zero as>

### **Fergus Ewing**

- 15** In section 4, page 6, line 30, leave out <of> and insert <under>

### **Length of contribution period in respect of debtor's income and estate**

#### **Margaret McDougall**

#### **Supported by: Alison Johnstone**

- 67** In section 4, page 4, line 33, leave out <48> and insert <36>

### **Fergus Ewing**

- 8** In section 4, page 5, line 2, leave out <payment of the debtor's contribution during the shorter period would> and insert <the value of—
  - (a) the debtor's contribution during the shorter period, and
  - (b) any other estate of the debtor taken possession of by the trustee, would be sufficient to>

#### **Margaret McDougall**

- 70** Leave out section 15

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**Deductions from earnings and other income**

**Fergus Ewing**

**12** In section 4, page 5, leave out lines 18 to 40 and insert—

**<32D Deductions from debtor's earnings and other income**

- (1) Subsections (2) to (6) apply where under a debtor contribution order—
  - (a) the debtor is required to pay to the trustee an amount from the debtor's earnings or other income, or
  - (b) in accordance with section 32A(4), a third person is required to pay to the trustee money otherwise due to the debtor by way of income.
- (2) The debtor must give the person mentioned in subsection (3) an instruction to make—
  - (a) deductions of specified amounts from the debtor's earnings or other income, and
  - (b) payments to the trustee of the amounts so deducted.
- (3) The person mentioned is—
  - (a) in the case of an amount to be paid from the debtor's earnings from employment, the person by whom the debtor is employed,
  - (b) in the case of an amount to be paid from other earnings or income of the debtor, a third person who is required to pay the earnings or income to the debtor, and
  - (c) in the case mentioned in subsection (1)(b), the third person who is required to pay the income to the trustee.
- (4) The trustee may give the person mentioned in subsection (3) an instruction of the type mentioned in subsection (2) if—
  - (a) the debtor fails to comply with the requirements imposed by that subsection, and
  - (b) the debtor fails to pay the debtor's contribution in respect of 2 payment intervals applying by virtue of the debtor contribution order.
- (5) A person mentioned in subsection (3) must comply with an instruction provided in accordance with subsection (2) or (4).
- (6) Where the person by whom the debtor is employed or another third person pays a sum of money to the trustee in accordance with this section, that person is discharged from any liability to the debtor to the extent of the sum so paid.
- (7) The Scottish Ministers may by regulations make provision about instructions to be provided under this section, including in particular—
  - (a) the form in which an instruction must be made,
  - (b) the manner in which an instruction provided in accordance with subsection (2) or (4) affects the recipient of that instruction, and

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- (c) the consequence of any failure of a recipient of an instruction provided in accordance with subsection (2) or (4) to comply with the duty imposed by subsection (5).>

**Jenny Marra**

- 12A** As an amendment to amendment 12, line 25, leave out <2> and insert <4>

**Fergus Ewing**

- 14** In section 4, page 6, line 24, after <order> and insert <or under section 32D(5)>

**Fergus Ewing**

- 61** In schedule 3, page 65, line 15, at end insert—  
<(iid) section 32D(7), and”>

**Discharge of debtor**

**Jenny Marra**

- 72** In section 4, page 6, leave out lines 8 and 9 and insert <the debtor is discharged under section 54.>

**Fergus Ewing**

- 13\*** In section 4, page 6, leave out line 8 and insert—  
<( ) sending a report to the Accountant in Bankruptcy under section 54(4), or>

**Fergus Ewing**

- 21** In section 16, page 18, line 18, leave out from beginning to end of line 33 on page 19 and insert—

**<Discharge where Accountant in Bankruptcy not the trustee**

- (1) This section applies where the Accountant in Bankruptcy is not the trustee.
- (2) The Accountant in Bankruptcy may discharge the debtor at any time after the date which is 12 months after the date on which sequestration is awarded by granting a certificate of discharge in the prescribed form.
- (3) Before deciding whether to discharge the debtor under subsection (2), the Accountant in Bankruptcy must—
  - (a) consider the report provided by the trustee under subsection (4), and
  - (b) take into account any representations received during the period mentioned in subsection (6)(b).
- (4) The trustee must prepare and send a report to the Accountant in Bankruptcy—
  - (a) without delay after the date which is 10 months after the date on which sequestration is awarded, and
  - (b) if the debtor is not otherwise discharged, before sending to the Accountant in Bankruptcy the documentation referred to in section 57(1)(b).

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- (5) The report must include—
  - (a) information about—
    - (i) the debtor's assets, liabilities, financial affairs and business affairs,
    - (ii) the debtor's conduct in relation to those assets, liabilities, financial affairs and business affairs,
    - (iii) the sequestration, and
    - (iv) the debtor's conduct in the course of the sequestration,
  - (b) a statement of whether, in the opinion of the trustee, the debtor has as at the date of the report—
    - (i) complied with any debtor contribution order,
    - (ii) co-operated with the trustee in accordance with section 64,
    - (iii) complied with the statement of undertakings,
    - (iv) made a full and fair surrender of the debtor's estate,
    - (v) made a full disclosure of all claims which the debtor is entitled to make against other persons, and
    - (vi) delivered to the trustee every document under the debtor's control relating to the debtor's estate, business or financial affairs, and
  - (c) a statement of whether the trustee has, as at the date that the report is sent to the Accountant in Bankruptcy, carried out all of the trustee's functions in accordance with section 3.
- (6) The trustee must, at the same time as sending a report to the Accountant in Bankruptcy under this section, give to the debtor and every creditor known to the trustee—
  - (a) a copy of the report, and
  - (b) a notice informing the recipient that the person has a right to make representations to the Accountant in Bankruptcy in relation to the report before the expiry of the period of 14 days beginning with the day on which the notice is given.
- (7) A discharge under this section must not take effect before the end of the period of 14 days beginning with the day of notification of the decision.>

### **Fergus Ewing**

**22** In section 16, page 20, line 27, leave out <54(10)> and insert <54(2)>

### **Fergus Ewing**

**23** In section 16, page 20, line 30, leave out <54(10)> and insert <54(2)>

### **Fergus Ewing**

**24** In section 16, page 20, line 33, leave out <54(10)> and insert <54(2)>

### **Jenny Marra**

**Supported by: Alison Johnstone**

**71** Leave out section 16

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**Fergus Ewing**

25 In section 18, page 23, leave out lines 3 to 12

**Fergus Ewing**

26 In section 18, page 23, line 13, leave out from <give> to end of line 16 and insert <prepare and send a report to the Accountant in Bankruptcy without delay after the date which is 10 months after the earlier of the date on which—

- (a) the whereabouts of the debtor were ascertained by the trustee, or
- (b) the debtor made contact with the trustee.

(4A) If the trustee sends a report to the Accountant in Bankruptcy under subsection (4)—

- (a) the report must include the matters included in a report sent to the Accountant in Bankruptcy in accordance with subsection (5) of section 54, and
- (b) subsection (6) of that section applies to the report as it applies to a report sent in accordance with subsection (4) of that section.>

**Fergus Ewing**

27 In section 18, page 23, leave out lines 17 to 29

**Fergus Ewing**

28 In section 18, page 23, line 30, leave out from <an> to <(7)(b)> in line 31 and insert <a report under subsection (4)>

**Fergus Ewing**

29 In section 18, page 23, line 33, at end insert—

<( ) Before deciding whether to discharge the debtor under subsection (8), the Accountant in Bankruptcy must—

- (a) consider the report prepared by the trustee under subsection (4), and
- (b) take into account any representations received during the period mentioned in subsection (6) of section 54 (as applied in accordance with subsection (4A)).>

**Fergus Ewing**

30 In section 18, page 23, line 38, leave out <54(10)> and insert <54(2)>

**Jenny Marra**

75 In section 18, page 23, line 38, leave out <54(10)> and insert <54>

**Fergus Ewing**

31 In section 18, page 23, leave out lines 39 to 41

**Fergus Ewing**

39 In schedule 2, page 61, line 11, leave out <54(10)> and insert <54(2)>

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**Jenny Marra**

- 78\* In schedule 2, page 61, line 11, leave out <54(10) or 54A(2)> and insert <54>

**Fergus Ewing**

- 55 In section 34, page 46, line 9, after <any> insert <report or other>

**Jenny Marra**

- 91 In section 46, page 54, line 9, leave out <or 54A>

**Jenny Marra**

- 92 In schedule 3, page 64, line 11, leave out <, 54A>

**Jenny Marra**

- 93\* In schedule 3, page 64, line 28, leave out <, 54A>

**Jenny Marra**

- 94 In schedule 3, page 64, line 30, leave out <, 54A>

**Jenny Marra**

- 95 In schedule 3, page 64, line 33, leave out <, 54A>

**Sequestration and trust deeds where debtor has few assets**

**Jenny Marra**

- 68 In section 5, page 8, leave out lines 12 to 15

**Fergus Ewing**

- 16 In section 5, page 8, line 15, leave out <10000> and insert <17000>

**Fergus Ewing**

- 17 In section 5, page 8, line 35, leave out from <that> to end of line 36 and insert <is not to be regarded as an asset if, under any provision of this or any other enactment, it would be excluded from vesting in the Accountant in Bankruptcy as trustee,>

**Hanzala Malik**

- 69 In section 5, page 9, line 4, at end insert—

<( ) Where subsection (2ZA) applies to the debtor, the debtor may not be charged a fee in respect of the exercise of any of the functions of the Accountant in Bankruptcy under this Act.>

**Fergus Ewing**

- 18 In schedule 1, page 56, line 6, leave out <5(2ZF)> and insert <5(2ZE)>

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### Fergus Ewing

- 58 In schedule 3, page 62, line 18, leave out paragraph 3 and insert—
- <In section 5 (sequestration of the estate of living or deceased debtor)—
- (a) in subsection (2B)(c), after sub-paragraph (ib), insert “or”, and
  - (b) in subsection (4A)(a), for “section 33(1) of this Act” substitute “any provision of this or any other enactment”.>

### Moratorium on diligence

### Fergus Ewing

- 19 In section 8, page 12, line 9, at end insert—
- <( ) Despite subsection (3)(b), it is competent to—
- (a) auction an article which has been attached in accordance with the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) where—
    - (i) notice has been given to the debtor under section 27(4) of that Act, or
    - (ii) the article has been removed, or notice of removal has been given, under section 53 of that Act,
  - (b) implement a decree of furthcoming,
  - (c) implement a decree or order for sale of a ship (or a share of it) or cargo.>

### Debtor’s bank accounts

### Fergus Ewing

- 20 Before section 13, insert—
- <**Debtor’s bank account**
- In section 32 of the 1985 Act (vesting of estate, and dealings of debtor, after sequestration)—
- (a) after subsection (5), insert—
    - “(5A) Where the trustee knows, or becomes aware, of any estate vested in the trustee under section 31 or this section which comprises funds held by a bank, the trustee must serve a notice on the bank—
      - (a) informing the bank of the sequestration, and
      - (b) specifying reasonable detail in order to allow the bank to identify the debtor and the funds held.
    - (5B) A notice under subsection (5A)—
      - (a) must be in writing and may be sent—
        - (i) by first class post or by using a registered or recorded delivery postal service to the bank,

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(ii) in some other manner (including by electronic means) which the trustee reasonably considers likely to cause it to be delivered to the bank on the same or next day,

(b) is deemed to have been received the day after it is sent.”,

(b) in subsection (6), after sub-paragraph (i) insert—

“(ia) the trustee is not entitled by virtue of this subsection to any remedy against a bank in respect of a banking transaction entered into before the receipt by the bank of a notice under subsection (5A) (whether or not the bank is aware of the sequestration),”

(c) in subsection (8), after “(9)” insert “and (9C)”,

(d) after subsection (9B), insert—

“(9C) Subsection (8) does not apply where the dealing is a banking transaction entered into before the receipt by the bank of a notice under subsection (5A) (whether or not the bank is aware of the sequestration).”, and

(e) after subsection (10), insert—

“(11) In this section “bank” has the same meaning as “appropriate bank or institution” in section 73(1).”.>

### Margaret McDougall

**20A** As an amendment to amendment 20, line 9, at end insert—

<( ) confirming the implications for the bank and the debtor of the sequestration,>

### Margaret McDougall

**73** Before section 13, insert—

#### <Bank accounts

After section 32 of the 1985 Act (vesting of estate, and dealings of debtor, after sequestration) insert—

#### “32ZA Debtor’s bank account

For the avoidance of doubt, nothing in this Act prevents a debtor—

(a) whose estate has been sequestrated, or

(b) whose estate has been discharged from sequestration,

from holding, or applying to open, a bank account.>

### Margaret McDougall

**21A** As an amendment to amendment 21, line 47, at end insert—

<(8) Subsection (9) applies where a trustee served a notice on a bank under section 32(5A) informing the bank of the sequestration of the debtor.

(9) As soon as is practicable after the date that the discharge takes effect, the trustee must service a notice on the bank—

(a) informing the bank of the discharge of the debtor from sequestration,

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- (b) confirming the implications of the discharge for the bank and the debtor.
- (10) A notice under subsection (9)—
  - (a) must be in writing and may be sent—
    - (i) by first class post or by using a registered or recorded delivery postal service to the bank,
    - (ii) in some other manner (including by electronic means) which the trustee reasonably considers likely to cause it to be delivered to the bank on the same or next day,
  - (b) is deemed to have been received the day after it is sent.
- (11) In this section, “bank” has the same meaning as “appropriate bank or institution” in section 73(1).>

### **Margaret McDougall**

**74\*** In section 16, page 20, line 24, at end insert—

- <(8) Subsection (9) applies where the Accountant in Bankruptcy served a notice on a bank under section 32(5A) informing the bank of the sequestration of the debtor.
- (9) As soon as is practicable after the date that the discharge takes effect, the Accountant in Bankruptcy must service a notice on the bank—
  - (a) informing the bank of the discharge of the debtor from sequestration,
  - (b) confirming the implications of the discharge for the bank and the debtor.
- (10) A notice under subsection (9)—
  - (a) must be in writing and may be sent—
    - (i) by first class post or by using a registered or recorded delivery postal service to the bank,
    - (ii) in some other manner (including by electronic means) which the Accountant in Bankruptcy reasonably considers likely to cause it to be delivered to the bank on the same or next day,
  - (b) is deemed to have been received the day after it is sent.
- (11) In this section, “bank” has the same meaning as “appropriate bank or institution” in section 73(1).>

### **Fergus Ewing**

**66** In schedule 4, page 67, line 10, at end insert—

<Section 32(9)(iii).>

### **Minor and technical**

#### **Fergus Ewing**

**32** In section 20, page 25, line 3, after <31> insert <or 32>

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**Fergus Ewing**

76 In section 20, page 25, line 6, leave out <58> and insert <57>

**Fergus Ewing**

33 In section 20, page 25, line 20, leave out <and realisation> and insert <, realisation and distribution>

**Fergus Ewing**

77 In section 20, page 25, line 22, leave out <58> and insert <57>

**Fergus Ewing**

40 In section 25, page 29, line 6, leave out <both> and insert <the first and second>

**Fergus Ewing**

41 In section 26, page 29, line 16, after <creditor> insert <(whether or not a person who was a petitioner for, or concurred in a debtor application for, the sequestration)>

**Fergus Ewing**

42 In section 26, page 29, line 19, leave out <, or concurred in a debtor application for,>

**Fergus Ewing**

43 In section 26, page 31, line 19, leave out <54> and insert <53>

**Fergus Ewing**

44 In section 28, page 37, line 42, after <trustee> insert <(or in the case where the former trustee has died, the former trustee's representatives)>

**Fergus Ewing**

51 In section 33, page 44, line 30, leave out <waiving>

**Fergus Ewing**

52 In section 33, page 44, line 31, at beginning insert <correcting>

**Fergus Ewing**

53 In section 33, page 44, line 33, at beginning insert <waiving>

**Fergus Ewing**

54 In section 33, page 44, line 39, at beginning insert <correct or>

**Fergus Ewing**

60 In schedule 3, page 64, line 32, at end insert—

<( ) in paragraph (b), for “section 1(3) of the Bail etc. (Scotland) Act 1980” substitute “section 24(6) of the Criminal Procedure (Scotland) Act 1995 (c.46)”, and>

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### **Fergus Ewing**

- 62 In schedule 3, page 65, line 18, after <Act> insert <or an Act of the Scottish Parliament>

### **Fergus Ewing**

- 63 In schedule 3, page 65, leave out lines 32 to 34

### **Fergus Ewing**

- 64 In schedule 3, page 65, line 38, at end insert <, and  
<(h) after the definition of “statement of assets and liabilities” insert—

““statement of undertakings” means the statement of debtor undertakings sent to the debtor under section 2(8) or, in the case of a debtor application, given by the debtor when making the application.”.>

## **Records**

### **Fergus Ewing**

- 34 In section 21, page 26, line 25, at end insert—  
<( ) after paragraph (iii), insert “, and  
(iv) any other document as may be specified in regulations made under this subsection or any other enactment.”, and>

### **Fergus Ewing**

- 35 In section 22, page 26, line 32, leave out subsection (1)

### **Fergus Ewing**

- 36 In section 22, page 26, line 38, leave out <(1)(a)> and insert <(1)(b)>

### **Fergus Ewing**

- 37 In section 22, page 27, line 4, leave out <“as part of the register of insolvencies”> and insert <“following a request made to the Accountant in Bankruptcy”>

### **Fergus Ewing**

- 38 In section 22, page 27, line 7, leave out <“as part of the register of insolvencies”> and insert <“following a request made to the Accountant in Bankruptcy”>

## **Removal of interim recall of sequestration**

### **Hanzala Malik**

- 79 In section 25, page 29, leave out lines 6 and 7

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**Hanzala Malik**

80 In section 25, page 29, line 35, leave out <17C(5) or>

**Hanzala Malik**

81 In section 26, page 30, line 37, leave out from beginning to end of line 3 on page 32

**Hanzala Malik**

82 In section 26, page 32, line 6, after <if> insert <the Accountant in Bankruptcy is satisfied that>

**Hanzala Malik**

83 In section 26, page 32, line 7, leave out <the trustee has notified the Accountant in Bankruptcy under section 17D(b)(ii) that the debtor's debts have been paid> and insert <the debtor has paid the debtor's debts>

**Hanzala Malik**

84 In section 26, page 32, line 11, leave out <the Accountant in Bankruptcy is satisfied that>

**Hanzala Malik**

85 In section 26, page 33, leave out lines 5 to 31

**Hanzala Malik**

86 In section 26, page 34, leave out lines 11 to 13

**Hanzala Malik**

87 In section 26, page 34, leave out lines 16 to 18

**Hanzala Malik**

88 In section 26, page 34, leave out lines 38 and 39

**Hanzala Malik**

89 In section 26, page 34, leave out lines 41 and 42

**Hanzala Malik**

90 In section 26, page 35, leave out lines 1 to 4

**Accountant in Bankruptcy referrals to court**

**Fergus Ewing**

45 In section 29, page 40, line 36, at end insert—

<(6I) The Accountant in Bankruptcy may refer a case to the sheriff for a direction before—

(a) making any order under subsection (1)(b) or (3),

(b) making any declaration or any order under subsection (6), or

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(c) undertaking any review under this section.

(6J) An application for a review under subsection (3A) or (6E) may not be made in relation to a matter on which the Accountant in Bankruptcy has applied to the sheriff for a direction under subsection (6I).”.>

### Fergus Ewing

46 In section 30, page 41, line 21, at end insert—

<(2E) The Accountant in Bankruptcy may refer a case to the sheriff for a direction before—

(a) making a decision under subsection (2A)(b), or

(b) undertaking any review under this section.

(2F) An application for a review under subsection (2B) may not be made in relation to a matter on which the Accountant in Bankruptcy has applied to the sheriff for a direction under subsection (2E).”.>

### Fergus Ewing

56 In section 35, page 47, line 3, at end insert—

<(7) The Accountant in Bankruptcy may refer a case to the sheriff for a direction before making a decision under sub-paragraph (5)(b).

(8) An appeal to the sheriff under sub-paragraph (6) may not be made in relation to a matter on which the Accountant in Bankruptcy has applied to the sheriff for a direction under sub-paragraph (7).”.>

## Bankruptcy restrictions orders

### Fergus Ewing

47 In section 31, page 42, line 13, leave out from <made> to <made,> in line 14

### Fergus Ewing

48 In section 31, page 42, leave out lines 17 to 20

### Fergus Ewing

49 In section 31, page 42, line 21, leave out <(4)> and insert <(3)>

### Fergus Ewing

50 In section 31, page 42, line 30, at end insert—

<( ) The sheriff may—

(a) in determining such an appeal, or

(b) otherwise on an application by the Accountant in Bankruptcy,

make an order providing that the debtor may not make another application under subsection (3) for such period as may be specified in the order.”.>

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### **Debt arrangement schemes: extension to non-natural persons and procedure**

#### **Fergus Ewing**

**57** After section 48, insert—

#### **<Debt arrangement schemes: extension to non-natural persons and fees**

- (1) The Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) is amended as follows.
- (2) In section 1 (debt arrangement scheme), for “individuals” substitute “persons”.
- (3) In section 7(2) (debt payment programmes: power to make further provision), after paragraph (ua) insert—  
“*(ub)* the remuneration of payments distributors and money advisers.”
- (4) Section 9(2) is repealed.>

#### **Fergus Ewing**

**65** In schedule 3, page 66, line 5, at end insert—

#### *<Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)*

In section 62 of the Debt Arrangement and Attachment (Scotland) Act 2002 (regulations and orders)—

- (a) in subsection (3), for “the first regulations made under section 7 above” substitute “any regulations containing provision of the kind mentioned in section 7(2)(bd), any regulations containing provision of the kind mentioned in section 7(2)(ub)”, and
- (b) in subsection (4), for “the first regulations made under section 7 above” substitute “any regulations containing provision of the kind mentioned in section 7(2)(bd), any regulations containing provision of the kind mentioned in section 7(2)(ub)”.>

### **Voluntary sequestration for partnerships**

#### **Fergus Ewing**

**59** In schedule 3, page 62, line 21, leave out paragraph 5 and insert—

<In section 6 (sequestration of other estates)—

- (a) in subsection (2), after paragraph (a) insert—  
“*(aa)* a limited liability partnership,”
- (b) before paragraph (a) of subsection (4) insert—  
“*(za)* by debtor application made by the partnership where the partnership is apparently insolvent,”
- (c) after subsection (4) insert—  
“(4A) For the purposes of an application under subsection (4)(za), section 7(3)(a) is to be read as if—  
(a) the word “either” were omitted, and

**THIS IS NOT THE MARSHALLED LIST**

- (b) the words “or if any of the partners is apparently insolvent for a debt of the partnership” were omitted.”,
- (d) in subsection (8), after “(8A)” insert “(but not (9) or (10))”.>