

# Bankruptcy and Debt Advice (Scotland) Bill

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## Groupings of Amendments for Stage 3

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 3 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

**Note:** The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

#### **Group 1: Financial education for debtor**

3

#### **Group 2: Common financial tool**

4, 5, 7

#### **Group 3: Minor and technical**

6, 9, 66, 74, 75, 76, 77, 78, 79, 80, 81, 82

#### **Group 4: Length of contribution period in respect of debtor's income and estate**

1, 2

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Debate to end no later than 35 minutes after proceedings begin

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#### **Group 5: Moratorium on diligence**

8

#### **Group 6: Recording certain documents in the Register of Inhibitions**

10, 65, 69, 73

#### **Group 7: Submission of claims to trustee**

11

**Group 8: Discharge of debtor**

12, 13, 14, 70

**Group 9: Assets discovered after discharge of trustee**

15, 16, 17, 18, 19

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**Debate to end no later than 1 hour 5 minutes after proceedings begin**

**Group 10: Recall of sequestration**

20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 71

**Group 11: Replacement of trustee and removal of trustees and commissioners**

43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

**Group 12: Bankruptcy restrictions orders**

54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64

**Group 13: Appeals against review decisions of the Accountant in Bankruptcy**

67

**Group 14: Representation in the sheriff court**

68, 72

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**Debate to end no later than 1 hour 30 minutes after proceedings begin**

**THIS IS NOT THE MARSHALLED LIST**

**Amendments in debating order**

**Group 1: Financial education for debtor**

**Fergus Ewing**

3 In section 2, page 2, line 25, at end insert—

<( ) The trustee must decide whether to issue a notification under subsection (1)—

(a) before the end of the period of 6 months beginning with the date of award of sequestration, and

(b) in a case where section 54F applies, as soon as reasonably practicable after the trustee ascertains the whereabouts of the debtor or the debtor makes contact with the trustee.>

**Group 2: Common financial tool**

**Fergus Ewing**

4 In section 3, page 3, line 10, after <debtor's> insert <financial circumstances (including the debtor's>

**Fergus Ewing**

5 In section 3, page 3, line 16, leave out <to assess the amount of a debtor's contribution> and insert <(with or without modification in accordance with regulations made under subsection (1)) as the common financial tool>

**Fergus Ewing**

7 In section 4, page 4, line 14, leave out <Before> and insert <In>

**Group 3: Minor and technical**

**Fergus Ewing**

6 In section 4, page 4, line 13, after <date> insert <of award>

**Fergus Ewing**

9 In section 9, page 15, line 22, leave out <(7)> and insert <(7)(a) or (b)>

**Fergus Ewing**

66 In section 40, page 54, line 13, leave out <(4)> and insert <(4)(b)>

**Fergus Ewing**

74 In schedule 3, page 66, line 31, at end insert—

**THIS IS NOT THE MARSHALLED LIST**

<In section 43A(1) (debtor's requirement to give account of affairs), for paragraph (b) substitute—

“(b) is subject to a debtor contribution order.”.>

**Fergus Ewing**

75 In schedule 3, page 66, line 38, at end insert—

<In section 50(1) (entitlement to vote and draw a dividend), for the words “on appeal under subsection (6) of” substitute “on review or appeal under”.

In section 52(7) (set aside of certain estate where appeal)—

(a) for the words “an appeal is taken under section 49(6)(b)” substitute “a review or appeal is made under section 49”, and

(b) for “appeal”, where it appears in both subsequent places, substitute “review or appeal”.>

**Fergus Ewing**

76 In schedule 3, page 67, line 20, at end insert—

<In section 58A(4) (documents sent on discharge of Accountant in Bankruptcy), in paragraph (a) for “the determination mentioned in subsection (2)(c) above” substitute “a determination of the Accountant in Bankruptcy's fees and outlays calculated in accordance with regulations made under section 69A”.>

**Fergus Ewing**

77 In schedule 4, page 69, line 25, at end insert—

<In section 10(7), the words “a bankruptcy order under the Bankruptcy Act 1914 (c.59) or”.>

**Fergus Ewing**

78 In schedule 4, page 69, line 32, at end insert—

<In section 14(3), in paragraph (a) the words “, or by virtue of paragraph 11 of Schedule 4 to,”; and paragraph (aa).>

**Fergus Ewing**

79 In schedule 4, page 69, line 42, at end insert—

<In section 32(6), the words “or interest”.>

**Fergus Ewing**

80 In schedule 4, page 69, line 43, leave out <32(9)(iii)> and insert <32(9)(b)(iii)>

**Fergus Ewing**

81 In schedule 4, page 69, line 43, at end insert—

<In section 34(4), the words “or interest”.>

**THIS IS NOT THE MARSHALLED LIST**

**Fergus Ewing**

82 In schedule 4, page 69, line 45, at end insert—

<In section 36(5), the words “or interest”.>

**Group 4: Length of contribution period in respect of debtor’s income and estate**

**Jenny Marra**

1 In section 4, page 4, line 39, leave out <48> and insert <36>

**Jenny Marra**

2 Leave out section 15

**Group 5: Moratorium on diligence**

**Fergus Ewing**

8 In section 8, page 13, line 26, at end insert—

<( ) execute an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order which came into effect before the day on which the moratorium period in relation to the person begins.>

**Group 6: Recording certain documents in the Register of Inhibitions**

**Fergus Ewing**

10 In section 12, page 18, line 21, at end insert—

<(3D) Without delay after granting a recall of an award of sequestration under subsection (3A), the Accountant in Bankruptcy must send a certified copy of the decision to the Keeper of the Register of Inhibitions for recording in that register.”.>

**Fergus Ewing**

65 In section 33, page 47, line 25, at end insert—

<( ) After making an order which affects a matter which is recorded in the Register of Inhibitions, the Accountant in Bankruptcy must without delay send a certified copy of the order to the Keeper of that register for recording in that register.>

**Fergus Ewing**

69 In section 44, page 56, line 14, at end insert—

## **THIS IS NOT THE MARSHALLED LIST**

<(4B) The trustee may, if appointed or reappointed under section 58B, send a memorandum in a form prescribed by the Court of Session by act of sederunt to the Keeper of the Register of Inhibitions for recording in that register before the expiry of that appointment.

(4C) The recording of a memorandum sent in accordance with subsection (4B) imposes the effect mentioned in subsection (2) for a period of 3 years beginning with the day of notification in accordance with section 58C(1).”.>

### **Fergus Ewing**

73 In schedule 3, page 65, line 40, at end insert—

<In section 14(3) (expiry of effect of inhibition), after paragraph (a) insert—

“(ab) on the recording under section 10A(3D), 17E(5) or 17F(11) of a certified copy of a decision.”.>

### **Group 7: Submission of claims to trustee**

#### **Fergus Ewing**

11 In section 13, page 19, line 36, leave out <the creditor provides a reasonable explanation as to why the claim was not> and insert <there were exceptional circumstances which prevented the claim from being>

### **Group 8: Discharge of debtor**

#### **Fergus Ewing**

12 In section 16, page 21, line 30, leave out <14> and insert <28>

#### **Fergus Ewing**

13 In section 18, page 24, line 15, at end insert—

<( ) An application under subsection (2) must include details of every creditor known to the trustee.>

#### **Fergus Ewing**

14 In section 18, page 24, line 26, leave out <former trustee must notify every creditor known to the former trustee> and insert <Accountant in Bankruptcy must notify every creditor known to the Accountant in Bankruptcy>

#### **Fergus Ewing**

70 In schedule 1, page 58, line 25, at end insert—

<( ) Section 58A applies as if—

(a) subsections (3) to (4C) and (7)(a) were omitted, and

(b) for subsection (5) there were substituted—

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“(5) The debtor or any creditor may, before the expiry of the period of 14 days beginning with the day on which the debtor is discharged under section 54C(1), appeal to the sheriff against the discharge of the Accountant in Bankruptcy in respect of the Accountant in Bankruptcy’s actings as trustee.”>

### **Group 9: Assets discovered after discharge of trustee**

#### **Fergus Ewing**

- 15 In section 20, page 26, line 27, after <estate> insert <with a value of not less than £1000 (or such other sum as may be prescribed)>

#### **Fergus Ewing**

- 16 In section 20, page 26, line 31, leave out <recovered by> and insert <known to>

#### **Fergus Ewing**

- 17 In section 20, page 27, leave out line 4

#### **Fergus Ewing**

- 18 In section 20, page 27, line 9, after <57> insert <and applies for reappointment under subsection (3)(a)(i)>

#### **Fergus Ewing**

- 19 In section 20, page 27, line 11, leave out <(7).> and insert <(7)(a) to (c).>
- (5A) Where the trustee was discharged under section 57 and does not apply for reappointment under subsection (3)(a)(i), the discharged trustee must—
- (a) provide to the Accountant in Bankruptcy details of any newly identified estate that the discharged trustee becomes aware of, where that estate has a value which is not less than the value mentioned in subsection (1), and
  - (b) if requested by the Accountant in Bankruptcy, provide to the Accountant in Bankruptcy the information mentioned in subsection (7)(b) and (c).>

### **Group 10: Recall of sequestration**

#### **Fergus Ewing**

- 20 In section 25, page 30, leave out lines 30 to 34 and insert—

<( ) after subsection (2), insert—

“(2A) Where the sheriff intends to recall an award of sequestration on the ground that the debtor has paid the debtor’s debts in full, the order recalling the award may not—

- (a) be made before the payment in full of the outlays and remuneration of the interim trustee and the trustee,
- (b) be subject to any conditions which are to be fulfilled before the order takes effect.”,

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( ) in subsection (3), after “On”, insert “or before”, and>

**Fergus Ewing**

21 In section 25, page 30, line 35, leave out <first and second places> and insert <second place>

**Fergus Ewing**

22 In section 26, page 31, line 27, leave out <17C(5) or>

**Fergus Ewing**

23 In section 26, page 31, leave out lines 33 to 38 and insert—

<( ) The trustee must prepare a statement on the debtor’s affairs, so far as within the knowledge of the trustee.

( ) The trustee must submit the statement to the Accountant in Bankruptcy—>

**Fergus Ewing**

24 In section 26, page 32, leave out lines 4 to 12 and insert—

<(4) The statement must—

(a) indicate whether the debtor has agreed to—

(i) the interim trustee’s claim for outlays reasonably incurred and for remuneration for work reasonably undertaken by the interim trustee (including any outlays and remuneration which are yet to be incurred), and

(ii) the trustee’s claim for outlays reasonably incurred and for remuneration for work reasonably undertaken by the trustee (including any outlays and remuneration which are yet to be incurred),

(b) state whether or not the debtor’s debts have been paid in full (including the payment of the outlays and remuneration of the interim trustee and the trustee),

(c) where the debtor’s debts have not been so paid—

(i) provide details of any debt which has not been paid, and

(ii) indicate whether, in the opinion of the trustee, the debtor’s assets are likely to be sufficient to pay the debts in full (including the payment of the outlays and remuneration of the interim trustee and the trustee) before the day which is 8 weeks after the day on which the statement is submitted, and

(d) provide details of any distribution of the debtor’s estate.>

**Fergus Ewing**

25 In section 26, page 32, line 22 leave out from <obtain> to <estate> in line 23 and insert <be included in the statement made by the trustee>

**Fergus Ewing**

26 In section 26, page 32, line 28, at end insert—



**THIS IS NOT THE MARSHALLED LIST**

- <( ) If any creditor submits a claim in accordance with subsection (8), the trustee must update and resubmit the statement before the expiry of the period of 7 days beginning with the expiry of the period mentioned in subsection (8)(b).
- ( ) The trustee must update and resubmit the statement if—
  - (a) the statement previously submitted did not state in accordance with subsection (4)(b) that the debtor's debts have been paid in full, and
  - (b) before the day on which the application is determined by the Accountant in Bankruptcy, the trustee is able to make that statement.>

**Fergus Ewing**

27 In section 26, page 32, leave out lines 29 to 43 and insert—

**<17C Determination of outlays and remuneration**

- (1) This section applies where—
  - (a) the Accountant in Bankruptcy receives an application under section 17A, and
  - (b) the statement submitted by the trustee under section 17B indicates that the amount of the outlays and remuneration of the trustee is not agreed.
- (2) The trustee must provide to the Accountant in Bankruptcy—
  - (a) at the same time as submitting the statement under section 17B—
    - (i) the trustee's accounts of the trustee's intromissions with the debtor's estate for audit, and
    - (ii) details of the trustee's claim for outlays reasonably incurred and for remuneration for work reasonably undertaken by the trustee (including any outlays and remuneration which are yet to be incurred), and
  - (b) such other information in relation to that claim as may be reasonably requested by the Accountant in Bankruptcy.>

**Fergus Ewing**

28 In section 26, page 33, line 1, leave out from <may> to end of line 10 and insert <must before the expiry of the period of 28 days beginning with the expiry of the period mentioned in section 17B(9) issue a determination fixing the amount of the outlays and the remuneration payable to the trustee.

- (3A) The Accountant in Bankruptcy may before the expiry of the period mentioned in subsection (3) determine the expenses reasonably incurred by a creditor who was a petitioner or, as the case may be, concurred in a debtor application for sequestration.>

**Fergus Ewing**

29 In section 26, page 33, line 12, leave out <(3)(a)> and insert <(3)>

**Fergus Ewing**

30 In section 26, page 33, leave out lines 15 to 37

**THIS IS NOT THE MARSHALLED LIST**

**Fergus Ewing**

- 31 In section 26, page 34, line 1, leave out <under section 17D(1)(b)(ii)> and insert <in the statement submitted under section 17B>

**Fergus Ewing**

- 32 In section 26, page 34, line 6, at end insert—

<( ) The Accountant in Bankruptcy may not grant a recall of an award of sequestration after—

(a) where no appeal is made under section 17H(5)(a), the day which is 8 weeks after the day on which the statement was first submitted under section 17B(2), or

(b) where such an appeal is made, such later day which is 14 days after the day on which the appeal is finally determined or abandoned.>

**Fergus Ewing**

- 33 In section 26, page 34, line 22, at end insert—

<(5) Without delay after granting a recall of an award of sequestration under subsection (1), the Accountant in Bankruptcy must send a certified copy of the decision to the Keeper of the Register of Inhibitions for recording in that register.>

**Fergus Ewing**

- 34 In section 26, page 34, line 34, leave out from first <to> to <estate> in line 35 and insert <for the creditor's claim to a dividend out of the debtor's estate to be considered>

**Fergus Ewing**

- 35 In section 26, page 34, line 40, leave out <an interim> and insert <a>

**Fergus Ewing**

- 36 In section 26, page 35, leave out lines 7 to 25

**Fergus Ewing**

- 37 In section 26, page 35, line 29, at end insert—

<( ) those debts were paid in full before the expiry of the period of 8 weeks beginning with the expiry of the period mentioned in subsection (5)(a),>

**Fergus Ewing**

- 38 In section 26, page 35, line 33, at end insert—

<(11) Without delay after granting a recall of an award of sequestration under subsection (9), the Accountant in Bankruptcy must send a certified copy of the decision to the Keeper of the Register of Inhibitions for recording in that register.>

**Fergus Ewing**

- 39 In section 26, page 36, leave out lines 4 to 6

**THIS IS NOT THE MARSHALLED LIST**

**Fergus Ewing**

- 40 In section 26, page 36, line 10, leave out from <17C(3)(b)> to end of line 11 and insert <17C(3A).>

**Fergus Ewing**

- 41 In section 26, page 36, line 32, leave out <17C(3)(a)> and insert <17C(3)>

**Fergus Ewing**

- 42 In section 26, page 36, line 35, leave out <17C(3)(a)> and insert <17C(3)>

**Fergus Ewing**

- 71 In schedule 2, page 61, leave out lines 36 and 37

**Group 11: Replacement of trustee and removal of trustees and commissioners**

**Fergus Ewing**

- 43 In section 28, page 39, line 21, at end insert—
- <( ) becomes subject to the circumstances mentioned in subsection (1A).
  - (1A) The circumstances are that—
    - (a) there is a conflict of interest affecting the trustee, or
    - (b) there is a change in the personal circumstances of the trustee,which prevents, or makes it impracticable for, the trustee to carry out the trustee's functions.>

**Fergus Ewing**

- 44 In section 28, page 39, line 22, after <(1)(b)> insert <or (c)>

**Fergus Ewing**

- 45 In section 28, page 39, line 33, at end insert—
- <(5A) A determination or appointment under this section may be made—
    - (a) on the application of any person having an interest, or
    - (b) without an application, where the Accountant in Bankruptcy proposes to make a determination or appointment of the Accountant in Bankruptcy's own accord.
  - (5B) The applicant must notify all interested persons where an application is made under subsection (5A)(a).
  - (5C) The Accountant in Bankruptcy must notify all interested persons where the Accountant in Bankruptcy proposes to make a determination or appointment by virtue of subsection (5A)(b).

**THIS IS NOT THE MARSHALLED LIST**

- (5D) A notice under subsection (5B) or (5C) must inform the recipient that the person has a right to make representations to the Accountant in Bankruptcy in relation to the application or the proposed determination or appointment before the expiry of the period of 14 days beginning with the day on which the notice is given.
- (5E) Before making a determination or appointment under this section, the Accountant in Bankruptcy must take into account any representations made by an interested person.>

**Fergus Ewing**

46 In section 28, page 39, leave out line 39 and insert—

- <(c) the trustee appointed under this section (where the trustee appointed is not the Accountant in Bankruptcy),>

**Fergus Ewing**

47 In section 28, page 39, line 41, at end insert—

- <(7) The trustee appointed under this section—
- (a) must notify the determination or appointment under this section to every creditor known to the trustee,
  - (b) may require—
    - (i) delivery of all documents relating to each sequestration in which the former trustee was acting which are in the possession of the former trustee or the former trustee's representatives (other than the former trustee's accounts),
    - (ii) delivery of a copy of the former trustee's accounts,
    - (iii) the former trustee or the former trustee's representatives to submit the trustee's accounts for audit to the commissioners or, if there are no commissioners, to the Accountant in Bankruptcy.
- (8) Where the trustee appointed under this section requires submission of the accounts in accordance with subsection (7)(b)(iii), the commissioners or, as the case may be, the Accountant in Bankruptcy must issue a determination fixing the amount of the outlays and remuneration payable to the former trustee or the former trustee's representatives in accordance with section 53.>

**Fergus Ewing**

48 In section 28, page 40, line 2, leave out <subsection (6)(a) to (c)> and insert <subsections (6)(a) and (b) and (7)(a)>

**Fergus Ewing**

49 In section 28, page 40, line 16, leave out <subsection (6)(a) to (c)> and insert <subsections (6)(a) and (b) and (7)(a)>

**Fergus Ewing**

50 In section 29, page 42, line 1, after <commissioners,> insert—

- <(ia) the debtor,>

**THIS IS NOT THE MARSHALLED LIST**

**Fergus Ewing**

- 51 In section 29, page 42, line 16, after <trustee,> insert <the debtor,>

**Fergus Ewing**

- 52 In section 29, page 42, line 29, after <trustee,> insert <the debtor,>

**Fergus Ewing**

- 53 After section 29, insert—

**<Removal of commissioner**

In section 30 of the 1985 Act (election, resignation and removal of commissioners)—

- (a) in subsection (4), after paragraph (b) insert—

“(c) by order of the sheriff if the sheriff is satisfied that the commissioner is no longer acting in the interests of the efficient conduct of the sequestration.”, and

- (b) after subsection (4), insert—

“(5) An order under subsection (4)(c) may be made on the application of—

- (a) the Accountant in Bankruptcy,  
(b) a person representing not less than one quarter in value of the creditors,  
or  
(c) the trustee.

- (6) The sheriff must—

- (a) order an application by a person mentioned in subsection (5) to be served on the commissioner,  
(b) order that the application is intimated to every creditor who has given a mandate to the commissioner, and  
(c) before deciding whether or not to make an order under subsection (4)(c), give the commissioner the opportunity to make representations.

- (7) On an application under subsection (4)(c), the sheriff may, in ordering the removal of the commissioner from office, make such further order as the sheriff thinks fit or may, instead of removing the commissioner from office, make such other order as the sheriff thinks fit.

- (8) The trustee, the Accountant in Bankruptcy, any commissioner or any creditor may appeal against the decision of the sheriff on an application under subsection (4)(c) within 14 days after the date of that decision.”.>

**Group 12: Bankruptcy restrictions orders**

**Fergus Ewing**

- 54 In section 31, page 43, line 37, at end insert <, or—

( ) the sheriff.

**THIS IS NOT THE MARSHALLED LIST**

- (1A) A bankruptcy restrictions order may be made by the sheriff only on the application of the Accountant in Bankruptcy.>

**Fergus Ewing**

- 55 In section 31, page 44, leave out lines 4 to 6 and insert—

<( ) for subsection (1), substitute—

- “(1) A bankruptcy restrictions order must be made if the Accountant in Bankruptcy, or as the case may be, the sheriff thinks it appropriate having regard to the conduct of the debtor (whether before or after the date of sequestration).”>

**Fergus Ewing**

- 56 In section 31, page 44, line 8, leave out from beginning to <Bankruptcy”> and insert <after “The”, where it first occurs, insert “Accountant in Bankruptcy, or as the case may be, the”>

**Fergus Ewing**

- 57 In section 31, page 44, line 14, leave out from <for> to <Bankruptcy”> and insert <after “The”, where it first occurs insert “Accountant in Bankruptcy, or as the case may be, the”>

**Fergus Ewing**

- 58 In section 31, page 44, line 15, leave out from <for> to end of line 16 and insert <after “the”, in the first and second places where it occurs, insert “Accountant in Bankruptcy, or as the case may be, the”.>

**Fergus Ewing**

- 59 In section 31, page 44, line 19, leave out from <the> to end of line 21 and insert <for “An application for a bankruptcy restrictions order must be made” substitute “The Accountant in Bankruptcy must make, or apply to the sheriff for, a bankruptcy restrictions order”,

( ) for subsection (2), substitute—

- “(2) After the end of the period referred to in subsection (1), the Accountant in Bankruptcy may—
- (a) make a bankruptcy restrictions order only with the permission of the sheriff, and
  - (b) make an application for a bankruptcy restrictions order only with the permission of the sheriff.”>

**Fergus Ewing**

- 60 In section 31, page 44, leave out lines 23 and 24 and insert—

<( ) for subsection (2), substitute—

- “(2) The date specified in a bankruptcy restrictions order under subsection (1)(b)—
- (a) in the case of an order made by the Accountant in Bankruptcy—
    - (i) must not be before the end of the period of 2 years beginning with the date on which the order is made, but
    - (ii) must be before the end of the period of 5 years beginning with that date, and

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- (b) in the case of an order made by the sheriff must not be—
  - (i) before the end of the period of 5 years beginning with the date on which the order is made, or
  - (ii) after the end of the period of 15 years beginning with that date.”,
- ( ) in subsection (3), for “sheriff” substitute “person mentioned in subsection (4)”,
- ( ) after subsection (3), insert—
  - “(4) The person is—
    - (a) in the case of a bankruptcy restrictions order made by the Accountant in Bankruptcy, the Accountant in Bankruptcy, and
    - (b) in the case of a bankruptcy restrictions order made by the sheriff, the sheriff.>

**Fergus Ewing**

- 61** In section 31, page 44, line 25, after <made> insert <to the Accountant in Bankruptcy>

**Fergus Ewing**

- 62** In section 31, page 45, line 1, leave out <This section> and insert <Subsection (2)>

**Fergus Ewing**

- 63** In section 31, page 45, line 11, at end insert—

- <(2A) Subsection (2B) applies at any time between—
  - (a) the making of an application to the sheriff for a bankruptcy restrictions order, and
  - (b) the determination of the application.
- (2B) The sheriff may, on the application of the Accountant in Bankruptcy, make an interim bankruptcy restrictions order if the sheriff thinks that—
  - (a) there are *prima facie* grounds to suggest that the application for the bankruptcy restrictions order will be successful, and
  - (b) it is in the public interest to make an interim bankruptcy restrictions order.”.>

**Fergus Ewing**

- 64** In section 31, page 45, leave out lines 13 to 18 and insert—

- <( ) for subsection (5), substitute—
  - “(5) An interim order ceases to have effect—
    - (a) in the case of an interim order made by the Accountant in Bankruptcy, on the Accountant in Bankruptcy deciding whether or not to make a bankruptcy restrictions order,
    - (b) in the case of an interim order made by the sheriff, on the determination of the application for the bankruptcy restrictions order, or
    - (c) if the sheriff discharges the interim order, on the application of the Accountant in Bankruptcy or of the debtor.”.>

**THIS IS NOT THE MARSHALLED LIST**

**Group 13: Appeals against review decisions of the Accountant in Bankruptcy**

**Fergus Ewing**

**67** After section 40 insert—

**<Appeals against decisions on review**

After section 63B of the 1985 Act insert—

**“63C Review of decisions by Accountant in Bankruptcy: grounds of appeal**

- (1) For the avoidance of doubt, an appeal under a provision mentioned in subsection (2) may be made on—
  - (a) a matter of fact,
  - (b) a point of law, or
  - (c) the merits.
- (2) The provisions are—
  - (a) section 3A(7),
  - (b) section 13A(11),
  - (c) section 13B(7),
  - (d) section 15(3D),
  - (e) section 17H(5),
  - (f) section 25A(8),
  - (g) section 26A(5),
  - (h) section 27(4),
  - (i) section 28B(4),
  - (j) section 29(4),
  - (k) section 29(6H),
  - (l) section 32BA(5),
  - (m) section 32G(5),
  - (n) section 42(2D),
  - (o) section 49(6D),
  - (p) section 54B(6),
  - (q) section 54G(6),
  - (r) section 56J(8),
  - (s) section 57(4),
  - (t) section 58A(5),
  - (u) section 63B(4),
  - (v) paragraph 3(6) of Schedule 1.”>



**THIS IS NOT THE MARSHALLED LIST**

**Group 14: Representation in the sheriff court**

**Fergus Ewing**

**68** Before section 41 insert—

**<Representation of Accountant in Bankruptcy in sheriff court**

After section 1C of the 1985 Act insert—

**“1D Conduct of proceedings in the sheriff court**

- (1) A person authorised by the Accountant in Bankruptcy may conduct civil proceedings in the sheriff court in relation to a function of the Accountant in Bankruptcy (including the functions listed in section 1A).
- (2) In subsection (1), “civil proceedings” are proceedings which are not in respect of an offence.”.>

**Fergus Ewing**

**72** In schedule 3, page 64, line 9, at end insert—

*<Sheriff Courts (Scotland) Act 1971 (c.58)*

In section 32(1)(m) of the Sheriff Courts (Scotland) Act 1971 (appearance before a sheriff under the 1985 Act), after “sequestration” insert “or section 54B(6) of that Act (appeal following review of discharge decision)”.>

