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SCHEDULES

SCHEDULE 2

CONSEQUENTIAL PROVISIONS

PART I

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

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 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.

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- (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.”