

## SCHEDULES

### SCHEDULE 1

Section 6.

#### OBLIGATIONS AFFECTED BY PRESCRIPTIVE PERIODS OF FIVE YEARS UNDER SECTION 6

- 1 Subject to paragraph 2 below, section 6 of this Act applies—
- (a) to any obligation to pay a sum of money due in respect of a particular period—
    - (i) by way of interest;
    - (ii) by way of an instalment of an annuity ;
    - (iii) by way of feuduty or other periodical payment under a feu grant;
    - (iv) by way of ground annual or other periodical payment under a contract of ground annual;
    - (v) by way of rent or other periodical payment under a lease ;
    - (vi) by way of a periodical payment in respect of the occupancy or use of land, not being an obligation falling within any other provision of this sub-paragraph;
    - (vii) by way of a periodical payment under a land obligation, not being an obligation falling within any other provision of this sub-paragraph ;
  - (b) to any obligation based on redress of unjustified enrichment, including without prejudice to that generality any obligation of restitution, repetition or recompense ;
  - (c) to any obligation arising from negotiorum gestio;
  - (d) to any obligation arising from liability (whether arising from any enactment or from any rule of law) to make reparation ;
  - (e) to any obligation under a bill of exchange or a promissory note;
  - (f) to any obligation of accounting, other than accounting for trust funds ;
  - (g) to any obligation arising from, or by reason of any breach of, a contract or promise, not being an obligation falling within any other provision of this paragraph.
- 2 Notwithstanding anything in the foregoing paragraph, section 6 of this Act does not apply—
- (a) to any obligation to recognise or obtemper a decree of court, an arbitration award or an order of a tribunal or authority exercising jurisdiction under any enactment;
  - (b) to any obligation arising from the issue of a bank note;
  - (c) to any obligation constituted or evidenced by a probative writ, not being a cautionary obligation nor being an obligation falling within paragraph 1(a) of this Schedule ;
  - (d) to any obligation under a contract of partnership or of agency, not being an obligation remaining, or becoming, prestable on or after the termination of the relationship between the parties under the contract;

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*Status: This is the original version (as it was originally enacted).*

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- (e) except as provided in paragraph 1(c) of this Schedule, to any obligation relating to land (including an obligation to recognise a servitude);
  - (f) to any obligation to satisfy any claim to terce, courtesy, legitim, *jus relictii* or *jus relictiae*, or to any prior right of a surviving spouse under section 8 or 9 of the Succession (Scotland) Act 1964;
  - (g) to any obligation to make reparation in respect of personal injuries within the meaning of Part II of this Act or in respect of the death of any person as a result of such injuries;
  - (h) to any obligation specified in Schedule 3 to this Act as an imprescriptible obligation.
- 3 (1) Subject to sub-paragraph (2) below, where by virtue of a probative writ two or more persons (in this paragraph referred to as "the co-obligants") are bound jointly and severally by an obligation to pay money to another party the obligation shall, as respects the liability of each of the co-obligants, be regarded for the purposes of sub-paragraph (c) of the last foregoing paragraph as if it were a cautionary obligation.
- (2) Nothing in the foregoing sub-paragraph shall affect any such obligation as respects the liability of any of the co-obligants with respect to whom the creditor establishes—
  - (a) that that co-obligant is truly a principal debtor, or
  - (b) if that co-obligant is not truly a principal debtor, that the original creditor was not aware of that fact at the time when the writ was delivered to him.
- 4 In this Schedule—
  - (a) "land obligation" has the same meaning as it has for the purposes of the Conveyancing and Feudal Reform (Scotland) Act 1970;
  - (b) "probative writ" means a writ which is authenticated by attestation or in any such other manner as, in relation to writs of the particular class in question, may be provided by or under any enactment as having an effect equivalent to attestation.