

DEBTORS (SCOTLAND) ACT 1987

Sheriff Court

(Court Ref No.)

APPLICATION BY _____

Applicant

PERSON TO
WHOM DEBT DUE _____

Creditor

* delete as
appropriate

*(a) The applicant is the defender in an action raised in this Sheriff Court/the Court of Session by the creditor in which decree was granted on

20 for £

*(b) The debt due by the applicant is payable under a document bearing a warrant for diligence (give details of this document)

The applicant states that to the best of his knowledge and belief that no time to pay direction or order relating to the debt has been made and that at the date of this application the amount outstanding is £ *(this figure should take account of interest, court expenses and any payment made to the account)*

The applicant states that the following steps have been taken in respect of the debt, namely

*(a) A charge for payment has been served on the applicant

*(b) An arrestment has been carried out (give details of arrestment served, person on whom served and date)

*(c) An attachment has been carried out on the instructions of the creditor at

on 20

*(d) An action for adjudication of the debt has been commenced.

The/

The applicant offers to pay the outstanding amount

- * (a) By instalments of £ each Week Fortnight Month
 (tick one box only)
- * (b) In one payment within weeks/months

The applicant's financial position is as follows:-

Outgoings			Income		
Weekly	Fortnightly	Monthly	Weekly	Fortnightly	Monthly
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Rent	£		Wages	£	
Mortgage	£		Pensions	£	
Heating	£		Social Security	£	
HP	£		Other	£	
Other	£			£	
	£			£	
TOTAL	£		TOTAL	£	

Dependent Children - how many

Dependent relatives - how many

Here list all capital (if any) e.g. value of house; amount in bank building society account; shares or other investments:-

Here list outstanding debts:-

The applicant asks the court

*delete as appropriate

1. **To make a time to pay order**
- *2. To recall the attachment referred to
- *3. To recall or restrict the arrestment referred to (*specify order sought*)

OR

*4. To order that no further steps shall be taken by the creditor or the sheriff officer in the diligence concerned, other than in the case of an attachment making a report of the attachment under section 17 of the Debt Arrangement and Attachment (Scotland) Act 2002, or applying for an order under sections 17(1), 20(1) and 21(10) of that Act.

Date _____ Signed _____ (Applicant)

At

20

The Sheriff having considered the foregoing application and being satisfied that it is properly made, sists all diligence pending the disposal of the application.

Appoints the creditor to furnish the Sheriff with particulars of the decree or other document under which the debt is payable within _____ days of intimation hereof.

Appoints the Sheriff Clerk to intimate a copy of the application and this interlocutor to the creditor; appoints him if he objects to the granting of this application to make written representation to the Court within 14 days of the date of intimation hereof.

Sheriff

I, _____, Sheriff Clerk Depute

did lawfully intimate the foregoing application and interlocutor to the said creditor by posting a certified copy of the application and warrant by recorded delivery post. The Post Office receipt for said recorded delivery letter is attached hereto.

Sheriff Clerk Depute

EXTRACT FROM SECTION 5(4) AND (5) OF THE DEBTORS (SCOTLAND) ACT 1987

(4) It shall not be competent for the sheriff to make a time to pay order:-

- (a) where the amount of the debt outstanding at the date of the making of the application under subsection (2) above (exclusive of interest) exceeds £25,000 or such other amount as may be prescribed in regulations made by the Lord Advocate;
- (b) where, in relation to the debt, a time to pay direction or a time to pay order has previously been made (whether such direction or order is in effect or not);
[omitted by SSI 2008/121]
- (d) in relation to a debt including any sum of money recoverable by or on behalf of the Inland Revenue in respect of tax or as if it were tax;
[omitted by SSI 2008/121]
- (f) in relation to a debt including –
 - (i) any duty due under the Betting and Gaming Duties Act 1981;
 - (ii) car tax due under the Car Tax Act 1983; or
 - (iii) value added tax under the Value Added Tax Act 1983 or any sum recoverable as if it were value added tax.

(5) Where in respect of a debt to which this section applies: -

- * (a) articles belonging to the debtor have been attached and notice of an auction given under section 27(4) of the Debt Arrangement and Attachment (Scotland) Act 2002(8) (asp 17) but no auction has yet taken place;
- * (aa) money owed by the debtor has been attached and removed;
- (b) a decree in an action of adjudication for debt has been granted and the creditor has, with the debtor's consent or acquiescence, entered into possession of any property adjudged by the decree or has obtained a decree of mails and duties, or a decree of removing or ejection, in relation to any such property,

it shall not be competent for the sheriff to make a time to pay order in respect of that debt until the diligence has been completed or has otherwise ceased to have effect.

{* inserted by SSI 2008/121}