



# Debtors (Scotland) Act 1987

## 1987 CHAPTER 18

### PART I

#### EXTENSION OF TIME TO PAY DEBTS

##### *Time to pay directions on granting decree*

#### **1 Time to pay directions.**

(1) Subject to subsections (3) to (5) below and to section 14 of this Act, [<sup>F1</sup>on an application by the debtor,] the court [<sup>F2</sup>or the First-tier Tribunal], on granting decree for payment of any principal sum of money [<sup>F3</sup>, shall, if satisfied that it is reasonable in all the circumstances to do so, and having regard in particular to the matters mentioned in subsection (1A) below,] direct that any sum decerned for in the decree (including any interest claimed in pursuance of subsections (6) and (7) below) or any expenses in relation to which the decree contains a finding as to liability or both such sum and such expenses shall be paid—

- (a) by such instalments, commencing at such time after the date of intimation by the creditor to the debtor of an extract of the decree containing the direction, payable at such intervals; or
- (b) as a lump sum at the end of such period following intimation as mentioned in paragraph (a) above,

as the court [<sup>F2</sup>or the First-tier Tribunal] may specify in the direction.

[<sup>F4</sup>(1A) The matters referred to in subsection (1) above are—

- (a) the nature of and reasons for the debt in relation to which decree is granted;
- (b) any action taken by the creditor to assist the debtor in paying that debt;
- (c) the debtor's financial position;
- (d) the reasonableness of any proposal by the debtor to pay that debt; and
- (e) the reasonableness of any refusal by the creditor of, or any objection by the creditor to, any proposal by the debtor to pay that debt.]

(2) A direction under subsection (1) above shall be known as a “time to pay direction”.

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- (3) Where a court [<sup>F5</sup>or the First-tier Tribunal] grants a decree which contains a finding as to liability for expenses but does not at the same time make a time to pay direction, then (whether or not the decree also decerns for payment of the expenses), it shall not at any time thereafter be competent for the court [<sup>F5</sup>or the First-tier Tribunal] to make a time to pay direction in relation to those expenses.
- (4) Where a court [<sup>F6</sup>or the First-tier Tribunal] grants a decree which contains a finding as to liability for expenses and makes a time to pay direction in relation to those expenses but—
- (a) does not decern for payment of the expenses; or
  - (b) decerns for payment of the expenses as taxed by the auditor of court [<sup>F7</sup>or auditor of the Court of Session] but does not specify the amount of those expenses,
- in relation to so much of the time to pay direction as relates to the expenses, the reference in subsection (1) above to the date of intimation of an extract of the decree containing the direction shall be treated as a reference to the date of intimation of an extract of a decree decerning for payment of the expenses, being an extract specifying their amount.
- (5) It shall not be competent for the court [<sup>F8</sup>or the First-tier Tribunal] to make a time to pay direction—
- (a) where the sum of money (exclusive of any interest and expenses) decerned for exceeds £10,000 or such amount as may be prescribed in regulations made by the Lord Advocate;
  - (b) where the decree contains an award of a capital sum on divorce or on the granting of a declarator of nullity of marriage;
  - (c) in connection with a maintenance order;
  - <sup>F9</sup>(cc) in connection with a liability order within the meaning of the Child Support Act 1991;
  - (d) in an action by or on behalf of [<sup>F10</sup>the Commissioners for Her Majesty's Revenue and Customs] for payment of any sum recoverable [<sup>F11</sup>under or by virtue of any enactment or under a contract settlement];
  - <sup>F12</sup>(da) in an action by or on behalf of Revenue Scotland for payment of any sum recoverable under or by virtue of the Revenue Scotland and Tax Powers Act 2014 (asp 16) or any other enactment in respect of a devolved tax, under a contract settlement or under a settlement agreement,]
  - <sup>F13</sup>(e) .....
  - (f) in an action for payment of—
    - <sup>F14</sup>(i) .....
    - (ii) car tax due under the <sup>M1</sup>Car Tax Act 1983 <sup>F15</sup>; . . .
    - <sup>F16</sup>(iii) .....
    - <sup>F17</sup>(iv) .....
- (6) Without prejudice to section 2(5) of this Act, interest payable under a decree containing a time to pay direction (other than interest awarded as a specific sum in the decree) shall not be recoverable by the creditor except in accordance with subsection (7) below.
- (7) A creditor who wishes to recover interest to which subsection (6) above applies shall serve a notice on the debtor, not later than the date prescribed by Act of Sederunt

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[<sup>F18</sup>or the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017] occurring—

- (a) in the case of a direction under subsection (1)(a) above, before the date when the last instalment of the debt concerned (other than such interest) is payable under the direction;
- (b) in the case of a direction under subsection (1)(b) above, before the end of the period specified in the direction,

stating that he is claiming such interest and specifying the amount of the interest claimed.

- (8) Any sum paid by a debtor under a time to pay direction shall not be ascribed to interest claimed in pursuance of subsections (6) and (7) above until the debt concerned (other than such interest) has been discharged.

[<sup>F19</sup>(8A) In paragraph (d) of subsection (5) above, “contract settlement” means an agreement made in connection with any person's liability to make a payment to the Commissioners for Her Majesty's Revenue and Customs under or by virtue of any enactment.]

[<sup>F20</sup>(8B) In paragraph (da) of subsection (5)—

“contract settlement” means any agreement made in connection with any person's liability to make a payment to Revenue Scotland under or by virtue of the Revenue Scotland and Tax Powers Act 2014 (asp 16) or any other enactment in respect of a devolved tax,

“devolved tax” has the meaning given by section 80A(4) of the Scotland Act 2012 (c. 46),

“settlement agreement” has the meaning given by section 246(1) of the Revenue Scotland and Tax Powers Act 2014 (asp 16).]

<sup>F21</sup>(9) . . . . .

#### Textual Amendments

- F1** Words in s. 1(1) inserted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 210(2)(a)(i), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F2** Words in s. 1(1) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **2(2)(a)**
- F3** Words in s. 1(1) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 210(2)(a)(ii), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F4** S. 1(1A) inserted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 210(2)(b), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F5** Words in s. 1(3) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **2(2)(a)**
- F6** Words in s. 1(4) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **2(2)(b)(i)**
- F7** Words in s. 1(4) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **2(2)(b)(ii)**

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- F8** Words in s. 1(5) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **2(2)(a)**
- F9** S. 1(5)(cc) inserted (5.4.1993) by Child Support Act 1991 (c. 48, SIF 20), s. 58(13), **Sch. 5 para. 8(2)** (with s. 9(2)); S.I. 1992/2644, **art. 2**.
- F10** Words in s. 1(5)(d) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 33**; S.I. 2005/1126, art. 2(2)(h)
- F11** Words in s. 1(5)(d) substituted (23.11.2009) by Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 13(1)(a)**; S.I. 2009/3024, art. 3 (with art. 5)
- F12** S. 1(5)(da) inserted (1.4.2015) by Revenue Scotland and Tax Powers Act 2014 (asp 16), s. 260(2), **sch. 4 para. 1(2)(a)** (with ss. 257-259); S.S.I. 2015/110, art. 2(1)
- F13** S. 1(5)(e) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 209(2)(a), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)
- F14** S. 1(5)(f)(i) omitted (23.11.2009) by virtue of Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 13(1)(b)**; S.I. 2009/3024, art. 3 (with art. 5)
- F15** Word in s. 1(5)(f) ceased to have effect (6.4.1999) by virtue of 1998 c. 14, s. 86(1), **Sch. 7 para. 12(a)**; S.I. 1999/526, **art. 2(3)(4)(b)** and repealed (1.6.1999) by 1998 c. 14, s. 86(2), **Sch. 8**; S.I. 1999/1510, **art. 2(f)(ii)**
- F16** S. 1(5)(f)(iii) omitted (23.11.2009) by virtue of Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 13(1)(b)**; S.I. 2009/3024, art. 3 (with art. 5)
- F17** S. 1(5)(f)(iv) omitted (23.11.2009) by virtue of Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 13(1)(b)**; S.I. 2009/3024, art. 3 (with art. 5)
- F18** Words in s. 1(7) inserted (6.3.2019) by The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019 (S.S.I. 2019/51), regs. 1, **2(2)(c)**
- F19** S. 1(8A) inserted (23.11.2009) by Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 13(1)(c)**; S.I. 2009/3024, art. 3 (with art. 5)
- F20** S. 1(8B) inserted (1.4.2015) by Revenue Scotland and Tax Powers Act 2014 (asp 16), s. 260(2), **sch. 4 para. 1(2)(b)** (with ss. 257-259); S.S.I. 2015/110, art. 2(1)
- F21** S. 1(9) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 209(2)(b), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(1)(g) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3)

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### Marginal Citations

**M1** 1983 c. 53.

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**Changes and effects yet to be applied to :**

- s. 1(5)(cc) repealed by [2008 c. 6 Sch. 8](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of [Private International Law \(Implementation of Agreements\) Act 2020 \(c. 24\)](#), s. 4(3), Sch. 5 para. 4(4))

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 8(1)(d)(e) substituted for s. 8(1)(d) by [2007 asp 3 Sch. 5 para. 16\(7\)\(a\)\(v\)](#)