



# 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, the court, on granting decree for payment of any principal sum of money may, on an application by the debtor, 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 may specify in the direction.
- (2) A direction under subsection (1) above shall be known as a “time to pay direction”.
- (3) Where a court 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 to make a time to pay direction in relation to those expenses.
- (4) Where a court 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 but does not specify the amount of those expenses,

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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 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>F1</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 the Inland Revenue for payment of any sum recoverable in respect of tax or as if it were tax;
  - [<sup>F2</sup>(e) in an action by or on behalf of—
    - (i) a rating authority for payment of rates;
    - (ii) a regional or islands council for the payment of any community charge, community water charge, council tax or council water charge;
      - [ a collecting authority (within the meaning of section 79 of the Local
      - <sup>F3</sup>(ia) Government etc. (Scotland) Act 1994) in respect of any charges payable to them by virtue of that section;]] or
      - (iii) a regional or islands council for payment of any amount payable as a civil penalty within the meaning of subsection (9) below.
  - (f) in an action for payment of—
    - (i) any duty due under the <sup>M1</sup>Betting and Gaming Duties Act 1981;
    - (ii) car tax due under the <sup>M2</sup>Car Tax Act 1983;
    - (iii) value added tax due under the <sup>M3</sup>Value Added Tax Act 1983 or any sum recoverable as if it were value added tax.
- (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 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.

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[<sup>F4</sup>(9) In paragraph (e) of subsection (5) above—

“community charge” and “community water charge” have the meanings assigned to them in section 26 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 and the reference in that paragraph to payments of these charges includes reference to any amount payable under section 18(3) of that Act (payment of charges in respect of backdated period);

“council tax” and “council water charge” have the meanings assigned to them by section 99(1) of the Local Government Finance Act 1992; and

“civil penalty” means a penalty under section 17(10) or (11) of that Act of 1987 or under paragraph 2 of Schedule 3 to that Act of 1992.]

#### Textual Amendments

- F1** 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**.
- F2** S. 1(5)(e)(ee) substituted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 53(1)**; S.I. 1993/575, **art. 2(c)**.
- F3** S. 1(5)(e)(iia) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 151(2)**; S.I. 1996/323, **art. 4(1)(c)**.
- F4** S. 1(9) inserted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 53(2)**; S.I. 1993/575, **art. 2(c)**.

#### Marginal Citations

- M1** 1981 c. 63.  
**M2** 1983 c. 53.  
**M3** 1983 c. 55.

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