FORM 5A

The Simple Procedure Time to Pay Application

This is a Time to Pay Application. It is used to ask the sheriff to make an order giving the respondent time to pay (where such an order is available).

You can only apply for time to pay where you admit the claim made against you by the claimant.

The respondent may ask for time to pay by completing this application and either:

(a) sending it to court with the completed Response Form, or

(b) bringing it to court at a discussion in court, case management discussion or a hearing.

Before completing this form, you should read Part 5 of the Simple Procedure Rules, which is about asking for time to pay.

There are two situations in which the court can make a time to pay order: under the Debtors (Scotland) Act 1987 and under the Consumer Credit Act 1974.

Time to pay under the Debtors (Scotland) Act 1987

The Debtors (Scotland) Act 1987 gives you the right to apply to the court for time to pay. This is an order which allows you to pay any sum which the court orders you to pay either in instalments or by deferred lump sum. A “deferred lump sum” means that you will be ordered by the court to pay the whole amount at one time within a period which the court will specify.

If the court makes an order, it may also recall or restrict any arrestment made on your property by the claimant in connection with the action or debt (for example, your bank account may have been frozen).

If an order is made, a copy of the Decision Form will be sent to you by the claimant telling you when payment should start or when it is you have to pay the lump sum.

If an order is not made, and an order for immediate payment is made against you, a Charge may be served on you if you do not pay.

Under the 1987 Act, the court is required to make an order if satisfied that it is reasonable in the circumstances to do so, and having regard in particular to the following matters:

- The nature of and reasons for the debt in relation to which decree is granted
- Any action taken by the creditor to assist the debtor in paying the debt
- The debtor's financial position
- The reasonableness of any proposal by the debtor to pay that debt
- The reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt.

Time to pay under the Consumer Credit Act 1974

The Consumer Credit Act 1974 allows you to apply to the court for an order asking the court to give you more time to pay a loan agreement. This order can only be applied for where the claim is about a credit agreement regulated by the Consumer Credit Act. The court has power to make an order in respect of a regulated agreement to reschedule payment of the sum owed. This means that an order can change:

- the amount you have to pay each month
- how long the loan will last
- in some cases, the interest rate payable

A time order can also stop the creditor taking away any item bought by you on hire purchase or conditional sale under the regulated agreement, so long as you continue to pay the instalments agreed.

A. ABOUT YOU

A1. What is your full name?

Name	
Middle name	
Surname	
Trading name or representative capacity (if any)	
Date of application	

B. ABOUT YOUR APPLICATION

ⓘ Set out how you think that you are able to pay the claimant the sum of money which you owe.

B1. I **admit the claim** and would like to apply to pay the sum of money as follows:

☐ By instalments of: £ 0.00 per week / fortnight / mont

☐ In one lump sum within: 0 weeks / months from today.

B2. How did you get into this debt?

ⓘ Set out the reasons for you getting into this debt.

B3. Why should the court give you time to pay?

ⓘ Set out the reasons why the court should give you time to pay.

B4. Why is the payment offer you have made reasonable?

ⓘ Set out any information which explains why the offer you have made is a reasonable one (i.e. why you can afford that offer but not a higher one).

B5. Are you applying to have an arrestment recalled or restricted?

ⓘ When making an order the court may recall or restrict an arrestment (i.e. unfreeze your bank account if it has been frozen).

☐ Yes (explain below)

☐ No

ⓘ Set out the details of the arrestment, including the date on which it occurred.

C. ABOUT YOUR FINANCES

ⓘ To help the court decide whether to make an order and what that order should be, please provide some details of your financial situation.

C1. What is your employment situation?

☐ Employed

☐ Self-employed

☐ Unemployed

C2. What are your outgoings?

ⓘ Set out any regular payments you have to make and whether these are made weekly, fortnightly or monthly.

Rent or mortgage	£ 0.00	each	week / fortnight / mont
Council tax	£ 0.00	each	week / fortnight / mont
Utilities (gas, electricity, etc)	£ 0.00	each	week / fortnight / mont
Food	£ 0.00	each	week / fortnight / mont
Loans and credit agreements	£ 0.00	each	week / fortnight / mont
Phone	£ 0.00	each	week / fortnight / mont
Other	£ 0.00	each	week / fortnight / mont
Total		each	week / fortnight / mont

C3. What income do you receive?

ⓘ Set out any regular income you receive and whether you get this weekly, fortnightly or monthly.

Wages or pension	£ 0.00	each	week / fortnight / mont
Benefits	£ 0.00	each	week / fortnight / mont
Tax credits	£ 0.00	each	week / fortnight / mont
Other	£ 0.00	each	week / fortnight / mont
Total	£ 0.00	each	week / fortnight / mont

C4. Does anyone rely on your income?

ⓘ Set out how many people (if any) rely on your income and who they are (e.g. spouse / civil partner / children).

C5. Do you have any capital?

ⓘ Set out any capital which you hold. For example, money in savings accounts, shares, investments or houses owned.