



FORM 5A

# The Simple Procedure Time to Pay Application

Sheriff Court	<input type="text"/>
Claimant	<input type="text"/>
Respondent	<input type="text"/>
Case reference number	<input type="text"/>

This is a Time to Pay Application. It is used to ask the sheriff to make an order for time to pay.

If you would like debt advice or financial guidance, you may wish to contact the Citizens Advice Bureau or another advisory or assistance organisation.

**If you complete a Time to Pay Application it means that you are admitting the claim made against you by the claimant for the payment of a sum of money.**

**Only an individual (not a company or another type of organisation) may ask for time to pay.** If you are a company or another type of organisation and accept that the claim against you is correct, you should try to settle the claim with the claimant.

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

- (a) sending it to court, or
- (b) bringing it to court at any discussion, case management discussion or 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 an order for time to pay: 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 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 claim 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 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 Debtors (Scotland) Act 1987, 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 the order is requested,
- 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 1974. 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.

An 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**

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A1. What is your full name?

Name	<input type="text"/>
Middle name	<input type="text"/>
Surname	<input type="text"/>
Trading name or representative capacity (if any)	<input type="text"/>
Date of application	<input type="text"/>

A2. What are your contact details?

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Address

City

Postcode

Email address

A3. How would you prefer the court and the claimant to contact you?

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By post

Online

**B. ABOUT YOUR REPRESENTATION**

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 Set out information about how you will be represented.

B1. How will you be represented during this case?

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I will represent myself

I will be represented by a solicitor

I will be represented by a non-solicitor (e.g. a family member, friend, or someone from an advice or advocacy organisation)

B2. Who is your representative?

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 If a family member or friend, give their full name. If someone from an advice or advocacy organisation, also give the name of that organisation.

Name

Surname

Organisation / firm name

B3. What are the contact details of your representative?

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 If your representative works for a solicitors' firm or an advice or advocacy organisation, give the address of that firm or organisation.

Address

City

Postcode

Email address

B4. Would you like us to contact you through your representative?

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 If you select 'yes', then the court will send orders in this case to your representative.

Yes

No

B5. How would your representative prefer the court to contact them?

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By post

Online

**C. ABOUT YOUR APPLICATION**

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① Set out how you think that you are able to pay the claimant the sum of money owed.

C1. I **admit the claim** for a sum of money and would like to apply to pay the sum as follows:

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By instalments of:  per

In one lump sum within:

C2. How did you get into this debt?

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① Set out the reasons for you getting into this debt.

C3. Why should the court give you time to pay?

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① Set out the reasons why the court should give you time to pay.

C4. Why is the payment offer you have made reasonable?

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① 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).

C5. Are you applying to have an arrestment recalled or restricted?

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① 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

① Set out the details of the arrestment, including the date on which it occurred.

**C6. If this claim relates to a consumer credit agreement, are you applying for additional orders?**

① When making an order for time to pay in relation to a consumer credit agreement the court has power to reschedule payment of the sum of money owed. This means that the court can change:

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

Yes (explain below)

No

① Set out the details of the orders sought, including why those orders are sought.

① If you have a copy of the agreement, please send a copy of it with this application.

**D. ABOUT YOUR FINANCES**

① To help the court decide whether to make an order and what that order should be, please provide some details of your financial situation.

**D1. What is your employment situation?**

Employed

Self-employed

Unemployed

**D2. What are your outgoings?**

① Set out any regular payments you have to make and whether these are made weekly, fortnightly or monthly.

Rent or mortgage

each

Council tax	<input type="text"/>	each	<input type="text"/>
Utilities (gas, electricity, etc.)	<input type="text"/>	each	<input type="text"/>
Food	<input type="text"/>	each	<input type="text"/>
Loans and credit agreements	<input type="text"/>	each	<input type="text"/>
Phone	<input type="text"/>	each	<input type="text"/>
Other	<input type="text"/>	each	<input type="text"/>
Total	<input type="text"/>	each	<input type="text"/>

**D3. What income do you receive?**

① Set out any regular income and whether it is weekly, fortnightly or monthly.

Wages or pension	<input type="text"/>	each	<input type="text"/>
Benefits	<input type="text"/>	each	<input type="text"/>
Tax credits	<input type="text"/>	each	<input type="text"/>
Other	<input type="text"/>	each	<input type="text"/>
Total	<input type="text"/>	each	<input type="text"/>

**D4. Does anyone rely on your income?**

① Set out how many people (if any) rely on your income and who they are (e.g. spouse / civil partner / children).

**D5. Do you have any capital?**

① Set out any capital which you hold. For example, money in savings accounts, shares, investments or houses owned.