



## **Debt and the consequences**

Important information to help you deal  
with your creditors and debt



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# 1. Why should I read this booklet?

Many people have problems with their debts. This booklet is designed to help you:

- > find where to go for money advice;
- > identify options for managing your debts;
- > work out what you can do about your debts;
- > understand what action your creditors (people you owe money to) can take to recover their money; and
- > understand the consequences of not paying your debts.

Free help and advice is available to help you deal with your debt. A money adviser can talk through your debt problems and work with you to try to improve your situation.

This booklet directs you to possible solutions for your debt problems and gives you contact details of organisations that can help.

You can also consult a solicitor. The solicitor may charge a fee but, depending on your circumstances, you may be able to get legal aid. The solicitor may also give you an initial interview free of charge.

## **Don't ignore your debts.**

With help and advice, you may be able to improve things.

## **2. How can a money adviser help me?**

There are many ways to deal with debt and it is important to seek advice as soon as possible.

You can obtain free and confidential advice from a trained money adviser. For example, through local authority money advice units or the Citizens Advice Bureaux.

Many creditors are aware of the Money Advice Liaison Group's Mental Health Guidelines. Anyone with mental health issues who owes money should speak to a money adviser.

A money adviser can help you decide how to deal with your debts, maximise your income, and deal with emergencies, such as if your bank account is frozen, your wages are arrested or your gas/electricity is cut off.

You may be able to make some payments to your creditors. A money adviser can help you decide how best to do this.

Your creditors may take you to court to try to get their money back.

Money advisers may be able to help with court representation.

There are tables on pages 35–40 that you can complete and take with you to the money advice office. These tables will provide your money adviser with an accurate picture of your financial affairs in order to help you.

### **3. Who can give me help and advice?**

You can get free, confidential, and impartial advice from:

#### **Money Advice Scotland**

Telephone 0141 572 0237

E-mail: [info@moneyadvicescotland.org.uk](mailto:info@moneyadvicescotland.org.uk)

Website: [www.moneyadvicescotland.org.uk](http://www.moneyadvicescotland.org.uk)

#### **Citizens Advice Scotland**

Telephone: 0808 800 9060

Website: [www.adviceguide.org.uk/Scotland](http://www.adviceguide.org.uk/Scotland)

#### **National Debt line**

Telephone: 0808 808 4000

Website: [www.nationaldebtline.org/S/Pages/default.aspx](http://www.nationaldebtline.org/S/Pages/default.aspx)

#### **StepChange Debt Charity**

Telephone: 0808 138 1111

Website: [www.stepchange.org](http://www.stepchange.org)

#### **Trading Standards Scotland**

Website: [www.scotss.org.uk](http://www.scotss.org.uk)

Local addresses and telephone numbers for Citizen Advice Bureaux and Trading Standards can be found on their website and in your phone book. You can also access the websites above for information on how to find a money adviser or debt counsellor in your area.

Pages 31–34 contain additional useful contact details

## **4. What can I do about my debts?**

There are a number of things that you can do. A money adviser can help you decide what is best for you.

The following are some of the choices you may have in order to deal with debt:

### **Debt management plans**

A debt management plan is an informal arrangement with your creditors to pay your debts over an extended period of time. Interest and fees will still accrue on your debts (unless your creditors agree to freeze interest) and they will not be written off – although if you complete the plan you should be able to pay your debts in full. You will keep control of the things you own (your assets) including your house as long as formal action is not taken against you.

You can arrange a plan directly with your creditors and can set it up with the help of a money adviser.

A debt management plan is not legally binding on your creditors and they can still take action to pursue the money you owe them.

## **Debt Arrangement Scheme (DAS)**

DAS is a debt management scheme introduced by the Scottish Government that gives you more time to pay your creditor(s) without the threat of legal action. To be eligible to participate in DAS, you must have surplus disposable income from which payments can be made to your creditors.

Under DAS you can apply for a Debt Payment Programme (DPP) which allows you to pay off your debt(s) over a period of time.

DAS freezes interest, fees and charges on your debt (except continuing liabilities, such as; future mortgage payments, utilities, rent) from the date your DPP is approved, and these will be written off if you complete the programme. The scheme protects your assets, including your home as long as you keep up your mortgage payments and your ongoing liabilities.

DAS is provided free of charge by money advisers at local authority advice units and Citizens Advice Bureaux. However, some other money advisers may charge a fee for their services and you should check with them before entering into any agreement.

Information on an approved adviser in your local area can be found on the DAS website at **[www.aib.gov.uk/debt-arrangement-scheme](http://www.aib.gov.uk/debt-arrangement-scheme)**

For general enquiries on DAS e-mail: **[das@aib.gov.uk](mailto:das@aib.gov.uk)**

## **Trust deeds**

A trust deed is a formal agreement between you and an insolvency practitioner who becomes your trustee. Your trustee is there for the benefit of your creditors and they will use contributions from your income or money from the sale of your assets to repay some, or all, of what you owe.

To enter into a trust deed, you must be able to make regular payments to your trustee from your income or have assets. The trust deed transfers your rights to your assets (this includes your home, whether you own it wholly or jointly) to your trustee who may sell your share of the asset to pay the cost of managing your trust deed and to pay off what is owed to your creditors.

Trust deeds normally last for 48 months, but this can vary. Interest will still accrue on your debts during the trust deed, but most of the debts outstanding at the end of the trust deed will be written off if you have co-operated with your trustee. The cost of administering a trust deed will be met from the money the trustee ingathers. These costs will be met before any payment is made to your creditors.

A trust deed can become protected which means that your creditors cannot take court action against you for the debts that you owed when the trust deed was agreed. If your creditors do not agree, they may prevent your trust deed from becoming protected. If your trust deed is not protected your creditors can still apply to make you bankrupt.

If your creditors agree, your trust deed will become protected but your trustee can make you bankrupt if you do not co-operate with them during the period of your protected trust deed.

Signing a trust deed has consequences for you.

You could lose your family home.

It will affect your credit rating, and you could find it difficult to get credit in the future.

## Bankruptcy

In Scotland, bankruptcy is sometimes called sequestration.

Being made bankrupt is a very serious matter. It can lead to loss of your home and can have other consequences.

It may impact on your job and your bank account could be frozen. Your credit rating will be affected and you could also find that access to future credit is restricted or only available at a very high rate of interest.

When you are declared bankrupt, control of the things you own including your home, regardless **if owned wholly or jointly**, is given to your trustee who will administer your bankruptcy.

Subject to certain conditions, a creditor can apply to the court to make you bankrupt or you can apply to the Accountant in Bankruptcy to make yourself bankrupt. Bankruptcy starts when you are declared bankrupt by a sheriff or by the Accountant in Bankruptcy. A trustee will be appointed to administer your bankruptcy.

You will normally be discharged from bankruptcy after one year or six months if you are awarded through the Minimal Asset Process (MAP) route. Your trustee can continue to sell any assets transferred to them up until they are discharged as trustee. If you do not co-operate with your trustee your discharge from bankruptcy can be deferred indefinitely.

It is the duty of your trustee to sell your assets or property and to use the money to pay the costs of managing your bankruptcy and to pay your creditors as much as possible. You will be able to keep some things essential for everyday living such as beds, your cooker, your television etc. You may also be required to make regular payments from your income to your trustee.

While you are bankrupt most of your creditors cannot take further action to pursue the money you owed them at the start of the bankruptcy. However, if you have a mortgage or other loan secured against your home the lender can take action against you if you stop making payments to them.

Interest will still accrue on your debts during your bankruptcy but most outstanding debts will be written off at the end.

You are responsible for any new debt you incur after the date you became bankrupt.

A money adviser can help you decide whether making yourself bankrupt is the right thing for you to do.

More information about bankruptcy can be found in the Debtors Guide available from Accountant in Bankruptcy. Contact details can be found on page 31.

## What are my choices?

|  | <b>Debt Management Plan (DMP)</b>  | <b>Debt Arrangement Scheme (DAS)</b>   | <b>Trust Deed</b>   | <b>Bankruptcy</b>   |
|--|--|--|---|---|
| <b>Cost</b>                                      | Usually no cost  | Usually no cost  | Fees apply, sometimes paid up front   | £200 application fee or £90 for MAP. Other fees may apply.  |
| <b>What happens to the interest on my debts?</b> | Still accrues  | Frozen as long as you complete your DAS payment programme  | Interest still accrues but is included as a debt in the trust deed  | Interest still accrues but is included as a debt in the bankruptcy  |
| <b>What happens to my home if I own it?</b>      | Nothing, as long as you keep up your mortgage payments. However, creditors may still place an inhibition on your property, meaning you cannot sell or re-mortgage without their consent. | Nothing, as long as you keep up your mortgage payments.  | Your trustee may sell it, However, a formal agreement to exclude your property from the trust deed may be arranged. | Your trustee may sell it or request you or an interested person buy out the trustee's interest in any equity. |
| <b>What is the effect on my debts?</b>           | Your debts are not written off. They are expected to be paid in full.  | Your debts are not written off. They are expected to be paid in full.  | Most debts will be written off at the end of the trust deed   | Most debts will be written off at the end of the bankruptcy   |
| <b>Can my creditor take action?</b>              | Yes. DMP's are not formal, therefore creditors do not have to agree or stick to them.  | You are protected against creditor action for debts in a debt payment programme unless the programme is revoked. | Not if your trust deed has been protected and you comply with the terms of your trust deed                          | No  |

|  |    |    |    |  |
|--|----|----|----|--|
| <b>Will my employment be affected?</b> | No | No | No | Certain professions can be affected, including solicitors, accountants, and government officials. This is not a full list and you should obtain advice from your employer or prospective employer. |
|--|----|----|----|--|

**Your credit rating will be affected with all of the above options.**

## **5. What legal steps can creditors take against me?**

If you do not pay the money you owe to your creditors they can take legal action through the courts to enforce the payment of debts. This includes making you bankrupt.

A creditor will usually issue you with a final notice before taking legal action. This tells you in writing that you have failed to pay what you owe and gives you a last opportunity to do so.

If you do nothing, your creditor is likely to raise a court action against you and you will have to repay the original debt with added interest and, usually, the creditors expenses as well.

There are several legal actions that a creditor can take to collect the money you owe them. The more common actions are arrestment of your earnings or bank account, or attaching items you own. Less common methods used include placing an inhibition on your property or ejection from your home.

Secured creditors such as your mortgage provider can take steps to repossess your home.

Remember: unless you tell your creditors you are having difficulties, they will not know. You should seek advice at the very earliest opportunity to help you deal with your debt problems.

## **6. What happens when my creditor takes me to court?**

If you have not paid your debt, your creditor(s) can take you to court.

### **How do I know if I am being taken to court?**

You will know that court action is being taken if you receive a summons or an initial writ. The summons or initial writ should tell you who is taking you to court and how much they think you owe them. It should also tell you which court the action is being taken in and what they want the sheriff to do.

A money adviser or solicitor will be able to explain the court process. Information is also available from your local sheriff court or at [www.scotcourt.gov.uk](http://www.scotcourt.gov.uk)

You may have to go to court.

### **What can a sheriff be asked to do?**

Usually, the creditor will ask the sheriff to order you to pay the amount you owe. If the money that you owe is for a car or other item that you have bought on credit or hire purchase, your creditor may also ask the sheriff to order you to return the goods. If the money that you owe is for rent or mortgage payments the sheriff may be asked to order you to leave your home.

### **What can I do if I receive a summons or writ?**

The summons or initial writ will ask you to advise the court what you intend to do by a specified date. Do not ignore this date.

You can:

- > Pay the money you owe.
- > Tell the court you owe the money, and ask for a time to pay direction or a time to pay order (you may also be able to ask for a time order under the Consumer Credit Act 1974). You will get the application form for a time to pay direction with the summons or initial writ. If the direction or order is granted a sheriff will issue a document called a decree detailing how much you must pay and how often.
- > Tell the court you do owe the money but do not ask for time to pay. A sheriff will issue a document called a decree which will order you to pay the debt as well as interest and court expenses.
- > Tell the court you don't agree you owe the money. A hearing date will then be set for a sheriff to listen to you and your creditor before making a decision.
- > Do nothing. A sheriff will presume you do owe the money and will issue a decree which will order you to pay the debt as well as interest and court expenses.

It is important to get help and advice if you are not sure what to do. A money adviser or solicitor (who may charge you) can help you decide the best way forward. It is still not too late to speak to your creditor, but don't delay.

If you apply for a time to pay direction or under the Debtor's (Scotland) Act 1987, you cannot apply for a time order under the Consumer Credit Act 1974 for the same debt.

## **What are time to pay directions and time orders?**

Time to pay directions under the Debtors (Scotland) Act 1987 and time orders under the Consumer Credit Act 1974 are formal ways of paying your debt over a longer period of time. You can make an application to the court for a time to pay direction when you receive a summons or an initial writ (as long as you do not owe more than £25,000). The sheriff will not agree to either of these options if a decree has been issued.

Even if a decree has already been issued, it may not be too late to take action. You may be able to apply to the sheriff for a time to pay order under the Debtors (Scotland) Act 1987, which is similar to a time to pay direction. This is described in a later section.

**You can find more information about the Consumer Credit Act 1974 from a money adviser or from the Office of Fair Trading or a Trading Standards office.**

If this happens a sheriff will listen to you and your creditor at a hearing before deciding on your application. It is up to you to find out from the court if your offer has been accepted or objected to. If the sheriff gives you time to pay, the creditor that took you to court cannot take further action to recover what you owe unless you stop paying. However your other creditors can still take action against you.

## **7. How does a creditor get their money after court action?**

If you have not been granted time to pay, and the court has issued a decree, your creditor can take action against you. The action will depend on a number of things including, how much money you owe, what kind of debt it is and your personal circumstances.

In Scotland, the enforcement of debt following court action is called 'diligence'. There are a number of diligences including earnings arrestment, bank arrestment and attachment. You can read more about diligence on page 18. Your creditor can also take steps to make you bankrupt.

Before your creditor takes any action they will normally ask a sheriff officer to serve you with a charge for payment and a Debt Advice and Information Package.

### **What is the Debt Advice and Information Package?**

There are a number of occasions when a creditor is required by law to give you a booklet called the Debt Advice and Information Package. It is your creditor's responsibility to provide it and they will normally ask a sheriff officer to give you the booklet when serving you with the charge for payment.

Creditors are required to provide the booklet if they are taking steps to recover the money you owe them through diligence, or if they intend to make you bankrupt.

## **What is a charge for payment?**

A charge for payment is a formal document warning that unless you pay your debt, or apply for a time to pay order within 14 days, your creditor is entitled to enforce payment. The document is normally delivered to you by a sheriff officer.

Most debt enforcement actions require a charge for payment.

## **What is a time to pay order?**

You can apply for a time to pay order under the provisions of the Debtors (Scotland) Act 1987 after you have received a charge for payment or an arrestment has taken place. You apply to the court and must not owe the creditor more than £25,000. An order gives you time to pay what you owe to the creditor over a period of time. A time to pay order is similar to time to pay directions and time orders but is only relevant once a charge has been issued.

Once a time to pay order has been granted, as long as you keep to the agreed payments, that creditor cannot take further action against you, but other creditors may be able to.

## **8. What types of enforcement action can a creditor use?**

Following the decree from the court your creditor can take a number of enforcement actions. They may be able to take more than one action at the same time.

### **Diligence**

Debt enforcement in Scotland is known as diligence. There are several types of diligence that can be used by creditors to recover debt. The creditor will choose which diligence to use depending on your circumstances. The most common types of diligence used are arrestment of earnings and arrestment of funds in a bank account.

Even if diligence has been instructed by your creditor, it isn't too late to take action. If you pay what you owe to your creditor, including the creditors interest and enforcement expenses, the diligence can be stopped.

Time to pay orders, Debt Payment Programmes under the Debt Arrangement Scheme, trust deeds and bankruptcy can in certain instances be 'diligence stoppers'.

You should seek advice before considering any of these options.

## **Arrestment of earnings**

If you are working, your employer may receive an arrestment schedule from your creditor instructing them to make regular deductions from your wages to repay the debt owed. Your creditor must have provided you with a Debt Advice and Information Package and have served a charge for payment before they issue the arrestment schedule.

The deductions are taken off your wages every pay day in the same way that tax is deducted and will continue until all the debt is paid.

Your employer will give you a copy of the earnings arrestment schedule. They will also tell you when the first deduction will be made and how much it will be.

Your employer will send the money to your creditor and may charge you a small administration fee every time a deduction is made from your wages or salary.

It is possible for more than one creditor to arrest your wages at the same time. There is a maximum amount, based on your earnings level, which can be deducted on each pay day. This amount will be shared amongst your creditors if you have more than one arrestment. This is known as a conjoined arrestment order.

## **Bank arrestment**

If you have money in a bank, building society or credit union account, your creditor can arrest the money to repay what you owe. Your creditor does not normally have to give you a charge for payment or a Debt Advice and Information Package to use an arrestment, unless they are a public creditor (for example, a council or a tax office). The money that can be arrested includes wages, benefits and savings, although there is a 'protected minimum balance' that cannot be arrested. The current protected minimum balance is £494.01.

Your creditor will ask a sheriff officer to serve a schedule of arrestment on your bank. The money in your account at that time will be frozen and may be removed. You cannot withdraw that money or use it to make other payments such as standing orders or direct debit payments. Your creditor can only ask the bank to arrest the amount you owe, plus a set amount for interest and expenses. If you have more than this in your account, you should still have access to the funds that are not required to repay the debt.

Your creditor doesn't get the money straight away. The money will be automatically released to your creditor after 14 weeks. If you give permission to your bank, building society or credit union to release the amount that you owe, the matter can be dealt with more quickly and may save you from paying some interest.

The money will not be released automatically if an objection to the arrestment is lodged with the sheriff. Instead, a separate court action will be required for the creditor to receive the funds. If you think you have grounds for objection, you must take action within four weeks of the schedule of arrestment being served on your bank.

You may only object to the arrestment if specific circumstances set out in law apply to your case. You should seek advice before making any applications to the court.

Bank arrestment is not the only form of arrestment. Creditors can arrest items in the hands of a third party, such as things you own that are held in storage or within a warehouse. They can also arrest other things such as your rights under life assurance policies or, if you are a landlord, arrest rent due to be paid to you by your tenants. Only attached funds can be released automatically. For everything else arrested, a separate court action is required by your creditor for the arrested property to pass to them.

If you feel that the arrestment is unduly harsh you may make an application to a sheriff, setting out your case. You can make this application at any time before funds or goods are released to your creditor and the sheriff will consider all the facts of the case before making a decision. If the sheriff agrees that the arrestment is unduly harsh, an order will be made to release some or all of your funds or property back to you.

## Attachment

Your creditor may instruct a sheriff officer to 'attach' items you own which are kept outside your home, for example, in your garage or driveway or in buildings used for business. Certain items are excluded from attachment, such as tools for your trade and mobile homes which are your main residence. Cars valued at under £3,000 are excluded from attachment if reasonably required. Once attached, you cannot sell or dispose of these items and they will be sold to pay your debts.

**Items kept in your home cannot be attached unless the sheriff officer has an "exceptional attachment order" You can find more information on these orders on page 24.**

Your creditor must have sent you a charge for payment and the Debt Advice and Information Package before they take steps to attach items you own.

The sheriff officer carrying out the attachment has the power to open locked places where goods are kept and must arrange for a professional valuation if considered appropriate. Once the items are valued the sheriff officer will send a report of the attachment to the court. The items will then be removed by the sheriff officer to be auctioned and the money from the sale will be sent to your creditor.

You may be able to make an arrangement to pay the sheriff officer what is owed, to prevent the items being removed and sold.

## Inhibition

A creditor may ask the court for an inhibition against any houses or land you own, even if you own them jointly with someone else. This will stop you from selling or transferring

ownership of the property or taking out any further loans against it. An inhibition does not allow your creditor to take possession of, or to sell, your property.

Your creditor will discharge or lift the inhibition if you pay them what is owed. The inhibition will lapse after five years unless your creditor renews it.

## **Money attachment**

Money attachment allows a creditor to seize money, including cash, foreign currency, postal orders and cheques held on a debtor's premises. Money kept in a home cannot be attached.

Your creditor must have sent you a charge for payment and the Debt Advice and Information Package before they take steps to attach money. If you run a business you will only receive a charge for payment.

The sheriff officer carrying out the money attachment will remove money from your business premises and must make a detailed report to the sheriff within 14 days of the removal. You will be given a copy of this report.

If you think that the attachment is unduly harsh or that the sheriff officer has not carried out the attachment correctly, or if someone else owns the money, an application may be made to a sheriff to have the money returned. A sheriff can only return a maximum of £1,000 if the attachment is considered unduly harsh.

Your creditor will apply to the sheriff for a payment order that authorises them to receive the money. The payment order allows the sheriff officer to cash any cheques and to pass the money to your creditor. Any surplus funds will be returned to you.

## **Exceptional attachment orders**

In exceptional circumstances your creditor can apply to the court for an exceptional attachment order which allows the attachment of goods inside a home.

A hearing will be held and you can be represented, or can represent yourself, at court.

A sheriff will only grant an exceptional attachment order if they are satisfied that the creditor has tried other methods to recover what they are owed.

If granted, a sheriff officer will come into your home, value your possessions, and attach items apart from items you need for your day-to-day living, such as, clothes, furniture, televisions and children's toys.

The sheriff officer will normally remove any attached item from your home immediately. These items will be auctioned and money sent to your creditor.

## **Diligence on the dependence**

If your creditor is concerned that you might dispose of, damage or destroy anything you own before a decree has been issued, they can ask the court for diligence on the dependence. This means that they are asking the court for permission to secure your goods, money, land or property, before the outcome of their legal action against you is decided.

There are three types of diligence that can be used – arrestment, inhibition and attachment (which is known as interim attachment).

Arrestment on the dependence can prevent you accessing funds in your bank, building society or credit union accounts.

It can also prevent you dealing with other items you own, for example, goods in a warehouse, and things like life assurance policies.

Inhibition on the dependence will prevent you from selling or transferring ownership of your property or taking out any further loans against it. If you own more than one property, the sheriff might restrict the inhibition to specific properties.

Interim attachment prevents you from selling the items attached but allows you to continue to use them. The goods will be valued but not normally removed and no action can be taken to sell them until a decree is granted.

### **Eviction due to rent or mortgage arrears**

If you have fallen behind with your rent or mortgage payments, or payments for a loan which is 'secured' on your home, your landlord or your lender can take action against you. They can take action even if you are bankrupt.

**There are laws protecting tenants and homeowners.**

**You should seek urgent advice from a money adviser, a housing aid centre or a solicitor, if you think your creditor is taking action to evict you or repossess your home.**

Your landlord or lender can ask the court for an order for you and your family to be removed from your property or for your property to be repossessed. If the court agrees it will set a date by which you must leave the property. If you do not leave by that date, sheriff officers will come to your property to remove you.

Before you are removed, you must be served with a charge for removing. This will tell you that you have a set period, normally 14 days, to leave the property before you are removed by sheriff

officers. Even if you have received this notice, it may not be too late to come to an agreement with your landlord or lender.

If you are removed, the sheriff officer will change the locks to prevent you from accessing your home. They will not, however, remove your possessions from the property and you must contact your landlord or lender to arrange to collect your possessions. If you do not make arrangements your possessions will be disposed of.

## 9. How can my creditors make me bankrupt?

Your creditors can submit a petition to court to make you bankrupt.

They can do this if:

- > you owe them at least £3,000 including any fees charges and interest added to the original debt; and
- > they have sent you a copy of the Debt Advice and Information Package; and
- > you are Apparently Insolvent. This means that you have not paid the debt after you have been served with either a charge for payment (see page 17) or a statutory demand (a statutory demand is a formal document issued by a creditor to demand payment of debt within 21 days).

After the petition has been lodged with the court you will be sent a document called a warrant to cite which will tell you who is petitioning for your bankruptcy and the date on which a hearing to consider the petition will be held.

If you pay your creditors before the hearing date the petition will normally be dismissed.

Courts will not take payment at the hearing – you must pay before this date.

If you do not pay, you can attend court and can be represented to say why the bankruptcy should not be awarded or to ask for time to settle the debt. A sheriff can postpone the decision for a maximum of six weeks to allow you to pay or for longer if you intend to repay under the Debt Arrangement Scheme.

If you do nothing, a sheriff will award bankruptcy. A trustee will be appointed to administer your bankruptcy. Your trustee can

sell your assets, including your home, and use the money to pay the costs of managing your bankruptcy and to pay your creditors as much as possible of what you owe them.

More detailed information is available from AiB which issues a range of publications. Contact details are on page 31 of this booklet.

## **10. What if my creditor is a local authority or HM Revenue & Customs?**

Public creditors use a different route to pursue the money you owe them.

Before taking any action they will serve you with a final notice. If you do nothing after receiving the final notice they can apply to the court for a summary warrant.

A summary warrant is similar to a decree but there is no court hearing and you cannot apply for a time to pay direction. A 10 per cent surcharge is automatically added to the amount you owe when a summary warrant is granted.

Once a summary has been issued, most public creditors will still allow you to negotiate to pay what you owe. If you do not pay you may be served with a charge for payment (see page 17). Debt enforcement actions can be taken against you or a petition may be presented to make you bankrupt (see page 18).

If you are served with a charge for payment to pay a local authority debt you can apply to the court for a time to pay order.

Time to pay directions or orders are not available for debt due to HM Revenue and Customs.

## **11. What can I do if I think my creditor or a sheriff officer has behaved incorrectly?**

Your creditors and sheriff officers acting on a creditor's instructions must act within the law when trying to recover the money you owe.

There are laws governing situations where actions have been carried out without proper authority or where properly authorised action has been carried out in the wrong way.

If you believe that a sheriff officer has behaved wrongfully you can submit a complaint to the Society of Messengers-at-Arms and Sheriff Officers. Complaints can be lodged with the society but a complainer has the alternative option of lodging a complaint directly with the Sheriff Principal of the sheriffdom within which the sheriff officer is acting.

A money adviser or solicitor may be able to help you if you wish to complain.

You can also speak to a Trading Standards department or the Office of Fair Trading.

Many creditors are aware of the Money Advice Liaison Group Mental Health Guidelines. Anyone with mental health issues who owes money should speak to a money adviser.

## **12. Further Information**

### **Contact details for Accountant in Bankruptcy:**

Accountant in Bankruptcy  
1 Pennyburn Road  
Kilwinning  
Ayrshire  
KA13 6SA

Telephone: 0300 200 2600

Fax: 0300 200 2601

E-Mail: [aib@aib.gov.uk](mailto:aib@aib.gov.uk)

(for general help about the bankruptcy process)

Website: [www.aib.gov.uk](http://www.aib.gov.uk)

### **Publications available from Accountant in Bankruptcy include:**

Bankruptcy – Debtor’s Guide

Bankruptcy – Creditor’s Guide

Trust Deed Guide

Bankruptcy Restriction Guide

The Debt Arrangement Scheme (DAS) Debtor Information  
booklet

The Debt Arrangement Scheme (DAS) Creditor Information  
booklet

Debt Advice and Information Package

### **Sources of Advice and Information**

Some useful contacts for free advice on debt:

#### **Money Advice Scotland**

Telephone 0141 572 0237

E-mail: [info@moneyadvicescotland.org.uk](mailto:info@moneyadvicescotland.org.uk)

Website: [www.moneyadvicescotland.org.uk](http://www.moneyadvicescotland.org.uk)

**Citizens Advice Scotland**

Telephone: 0808 800 9060

Website: [www.cas.org.uk](http://www.cas.org.uk)

**National Debt line**

Telephone: 0808 808 4000

Website: [www.nationaldebtline.org/EW/Pages/default.aspx](http://www.nationaldebtline.org/EW/Pages/default.aspx)

**StepChange Debt Charity**

Telephone: 0800 138 1111

Website [www.stepchange.org](http://www.stepchange.org)

**Shelter Scotland**

Scotiabank House

6 South Charlotte Street

Edinburgh

EH2 4AW

Telephone: 0808 800 4444

Website: [www.shelter.org.uk](http://www.shelter.org.uk)

Email: [info@shelter.org.uk](mailto:info@shelter.org.uk)

**Trading Standards Scotland**

Website: [www.scotss.org.uk](http://www.scotss.org.uk)

Local addresses and telephone numbers for Citizen Advice Bureaux and Trading Standards can be found on their website and in your phone book. You can access the websites above for information on how to find a money adviser or debt counsellor in your area.

**For help finding an insolvency practitioner contact:**

**Institute of Chartered Accountants of Scotland**

CA House  
21 Haymarket Yards  
Edinburgh  
EH12 5BH

Telephone: 0131 347 0100  
Website: [www.icas.org.uk](http://www.icas.org.uk)

**Insolvency Practitioners Association**

Valiant House  
4-10 Heneage Lane  
London  
EC3A 5DQ

Telephone: 020 7623 5108  
Website: [www.insolvency-practitioners.org.uk](http://www.insolvency-practitioners.org.uk)

**Other useful contacts**

**Law Society of Scotland**

26 Drumsheugh Gardens  
Edinburgh  
EH3 7YR

Telephone: 0131 226 7411  
Website: [www.lawscot.org.uk](http://www.lawscot.org.uk)  
email: [lawscot@lawscot.org.uk](mailto:lawscot@lawscot.org.uk)

## **Financial Conduct Authority**

25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

Telephone: 0800 111 6768  
Website: <http://www.fca.org.uk>  
Email: [consumer.queries@fca.org.uk](mailto:consumer.queries@fca.org.uk)

## **The Society of Messenger-at-Arms and Sheriff Officers**

8 – 12 Torphichen Street  
Edinburgh  
EH3 8JQ

Telephone: 0131 228 2866  
Fax: 0131 220 3468  
Email: [admin@smaso.ednet.co.uk](mailto:admin@smaso.ednet.co.uk)  
Website: [www.smaso.org](http://www.smaso.org)

## **The Accountant in Bankruptcy:**

The Accountant in Bankruptcy  
1 Pennyburn Road  
Kilwinning  
Ayrshire  
KA13 6SA

Telephone: 0300 200 2600  
Fax: 0300 200 2601  
Website: [www.aib.gov.uk](http://www.aib.gov.uk)

### 13. Household income and expenditure

You can use the following pages to record your income and expenditure and your debts. This will be useful when you speak to a money adviser.

Total number of people in household

Number of dependent children in household

#### Salary and wages

| Income                 | Amount £ | Frequency |
|------------------------|----------|-----------|
| Debtor's salary/wages  |          |           |
| Partner's salary/wages |          |           |
| <b>Total Income</b>    |          |           |

#### Pensions

| Pension(s)                 | Amount £ | Frequency |
|----------------------------|----------|-----------|
| State Pension(s)           |          |           |
| Private or work pension(s) |          |           |
| Pension Credit             |          |           |
| <b>Total Income</b>        |          |           |

## Other income

| Other income                                      | Amount £ | Frequency |
|---|----------|-----------|
| Maintenance or child support                      |          |           |
| Boarders or lodgers                               |          |           |
| Non-dependant contribution                        |          |           |
| Student loans or grants                           |          |           |
| (To be completed with any other household income) |          |           |
| (To be completed with any other household income) |          |           |
| <b>Total</b>                                      |          |           |

## Benefits

| Type of benefit                         | Amount £ | Frequency |
|---|----------|-----------|
| Jobseeker's Allowance                   |          |           |
| Income Support                          |          |           |
| Working Tax Credits                     |          |           |
| Child Tax Credits                       |          |           |
| Child Benefit                           |          |           |
| Employment and Support Allowance        |          |           |
| DLA, PIP or Attendance Allowance        |          |           |
| Carer's Allowance                       |          |           |
| Housing Benefit/Local Housing Allowance |          |           |
| Council Tax Reduction                   |          |           |
| Universal Credit                        |          |           |
| (Other)                                 |          |           |
| <b>Total</b>                            |          |           |

| <b>Essential expenditure</b>              | <b>Amount</b> | <b>Frequency</b> |
|---|---------------|------------------|
| Rent                                      |               |                  |
| Ground rent, service charges, factor fees |               |                  |
| Mortgages                                 |               |                  |
| Other Secured Loans                       |               |                  |
| Building and Content Insurance            |               |                  |
| Pension and Life insurance                |               |                  |
| Council Tax                               |               |                  |
| Gas                                       |               |                  |
| Electricity                               |               |                  |
| TV Licence                                |               |                  |
| Magistrates or Sheriff Court Fines        |               |                  |
| Maintenance or Child Support              |               |                  |
| Hire Purchase/Conditional Sales           |               |                  |
| Childcare Costs                           |               |                  |
| Adult Care Costs                          |               |                  |
| <b>Total</b>                              |               |                  |

| <b>Phone</b>    | <b>Amount</b> | <b>Frequency</b> |
|-----------------|---------------|------------------|
| Home Phone      |               |                  |
| Mobile Phone(s) |               |                  |
| <b>Total</b>    |               |                  |

| <b>Travel</b>                                  | <b>Amount</b> | <b>Frequency</b> |
|--|---------------|------------------|
| Public Transport (work, school, shopping, etc) |               |                  |
| Car Insurance                                  |               |                  |
| Vehicle Tax                                    |               |                  |
| Fuel (Petrol, Diesel, Oil, etc)                |               |                  |
| MOT and car maintenance                        |               |                  |
| Breakdown and Recovery                         |               |                  |
| Parking Charges or Tolls                       |               |                  |
| <b>Total</b>                                   |               |                  |

| <b>Housekeeping</b>            | <b>Amount</b> | <b>Frequency</b> |
|--------------------------------|---------------|------------------|
| Food and Milk                  |               |                  |
| Cleaning and Toiletries        |               |                  |
| Newspapers and Magazines       |               |                  |
| Cigarettes, Tobacco and Sweets |               |                  |
| Alcohol                        |               |                  |
| Laundry and dry cleaning       |               |                  |
| Clothing and Footwear          |               |                  |
| Nappies and baby items         |               |                  |
| Pet Food                       |               |                  |
| <b>Total</b>                   |               |                  |

| Other expenditure   | Amount | Frequency |
|---|--------|-----------|
| Health (dentist, glasses, prescriptions, health insurance)                      |        |           |
| Repairs/house maintenance<br>(including window cleaning, maintenance contracts) |        |           |
| Hairdressing/haircuts   |        |           |
| Cable, Satellite and Internet   |        |           |
| MOT and car maintenance   |        |           |
| Breakdown and Recovery  |        |           |
| Parking Charges or Tolls  |        |           |
| TV, video and other appliance rental  |        |           |
| School meals and meals at work  |        |           |
| Pocket money and school trips   |        |           |
| Lottery and Pools etc.  |        |           |
| Hobbies/leisure/sport (include pub outings, etc.)                               |        |           |
| Gifts (Christmas, Birthday, Charity etc.)                                       |        |           |
| Vet Bills and Pet Insurance   |        |           |
| <b>Total</b>  |        |           |

| All other expenses not covered above | Amount | Frequency |
|--------------------------------------|--------|-----------|
|                                      |        |           |
|                                      |        |           |
|                                      |        |           |
| <b>Total</b>                         |        |           |

Total Income

Surplus Income

Total Expenditure



## Using your personal information

Personal information which you supply to Accountant in Bankruptcy (AiB) may be used in a number of different ways to enable AiB to act in accordance with the Bankruptcy (Scotland) Act 2016 and other relevant legislation. For example:

- to determine bankruptcy applications and Debt Arrangement Scheme (DAS) debt payment programmes
- for the collection of fees and contributions
- to identify and sell assets
- to supervise the administration of bankruptcies, protected trust deeds and debt payment programmes
- for statistical analysis purposes

In order to complete these statutory duties and tasks we do need to collect and process personal information about you and sometimes about third parties. In certain circumstances we may share personal information with others, for example: our agents; banks; credit reference agencies; creditors and local authorities.

If you are made bankrupt, sign a trust deed, apply for a DAS debt payment programme or register a moratorium, your details must be recorded in a public register which is available for anyone to access free of charge. If you are made subject to a Bankruptcy Restriction Order (BRO), details of your BRO will also be recorded on the AiB website.

We, or an agent acting on our behalf may contact you to discuss your experience of using our services as part of our on-going commitment to improve customer service. If you do not wish us to contact you for this purpose, please let us know.

Our **full privacy statement** details how we process personal information and your right to request to see, amend or delete information which we hold about you, is published on our website: **[www.aib.gov.uk](http://www.aib.gov.uk)**.

If you wish a copy of our privacy statement you can write to us at:

Accountant in Bankruptcy  
1 Pennyburn Road  
Kilwinning  
Ayrshire  
KA13 6SA

You can also email us at: **[gdpr@aib.gov.uk](mailto:gdpr@aib.gov.uk)** or phone us on **0300 200 2600** and ask to speak with our Data Protection Officer.

Community language versions and alternative formats of our privacy statement are available on request. Please contact **0300 200 2600** to ask for this to be arranged.

This publication is available on request in community language versions and alternative formats. Please contact **0300 200 2600** for this to be arranged.

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الرجاء الاتصال بالرقم الهاتفي **0300 200 2600** لترتيب هذا.

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Tha am foillseachadh seo ri fhaotainn air iarrtas ann an cànanan coimhearsnachd agus ann an cruthan eile.  
Cuiribh fios gu **0300 200 2600** airson seo a chur air dòigh.

Aby otrzymać niniejszy dokument w innej wersji językowej, na kasecie lub w wersji z powiększonym drukiem, prosimy o kontakt: **0300 200 2600**

We have written this booklet for general guidance only.  
It is not a detailed or full statement of the law.



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