
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 51

The First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019

Amendment of the Debtors (Scotland) Act 1987

2.—(1) The Debtors (Scotland) Act 1987⁽¹⁾ is amended in accordance with paragraphs (2) to (12).

(2) In section 1 (time to pay directions)—

- (a) in subsections (1), (3) and (5) after “court”, on each occasion where it appears, insert “or the First-tier Tribunal”,
- (b) in subsection (4)—
 - (i) after “a court” insert “or the First-tier Tribunal”, and
 - (ii) after “auditor of court” insert “or auditor of the Court of Session”, and
- (c) in subsection (7) after “Act of Sederunt” insert “or the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017”.

(3) In section 2 (effect of time to pay direction on diligence)—

- (a) in subsections (3) and (4) after “court”, on each occasion where it appears, insert “or the First-tier Tribunal”,
- (b) in subsection (5A) for “or sheriff clerk” substitute “, sheriff clerk or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”.

(4) In section 3 (variation and recall of time to pay direction and arrestment)—

- (a) in subsection (1) after “decree” insert “, or the First-tier Tribunal, where it has made an order,”,
- (b) in subsection (2) after “court”, on each occasion where it appears, insert “or the First-tier Tribunal”, and
- (c) in subsection (3) for “or sheriff clerk” substitute “, sheriff clerk or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”.

(5) In section 5 (time to pay orders)—

- (a) in subsection (2)—
 - (i) after “below, the sheriff” insert “or the First-tier Tribunal”, and
 - (ii) omit “by the sheriff clerk”,
- (b) in subsections (4), (5) and (5A) after “the sheriff”, on each occasion where it appears, insert “or the First-tier Tribunal”, and
- (c) in subsection (7) after “Act of Sederunt” insert “or by rules made under section 68 or paragraph 4 of schedule 9 of the Tribunals (Scotland) Act 2014”.

- (6) In section 6 (application for time to pay order)—
- (a) in subsection (2)—
 - (i) omit “sheriff clerk’s”, and
 - (ii) after “of this Act” insert “on the sheriff clerk or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”,
 - (b) in subsection (3) omit “to him”,
 - (c) in subsections (3) to (5) after “the sheriff”, on each occasion where it appears, insert “or the First-tier Tribunal”,
 - (d) in subsection (4) after “Act of Sederunt” insert “or rules made under section 68 or paragraph 4 of schedule 9 of the Tribunals (Scotland) Act 2014”,
 - (e) in subsection (6)—
 - (i) after “where the sheriff” insert “or the First-tier Tribunal”, and
 - (ii) after “sheriff clerk” insert “or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”.
- (7) In section 7 (disposal of application)—
- (a) in subsections (1) to (3) after “the sheriff”, on each occasion where it appears, insert “or the First-tier Tribunal”,
 - (b) in subsection (4)—
 - (i) after “sheriff clerk” insert “or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”, and
 - (ii) in paragraphs (a) and (b) after “the sheriff”, on each occasion where it appears, insert “or the First-tier Tribunal”.
- (8) In section 8(2) (effect of interim order on diligence) after “sheriff’s” insert “or the First-tier Tribunal’s”.
- (9) In section 9 (effect of time to pay order on diligence)—
- (a) after subsection (2) insert—
 - “(2A) On making a time to pay order, the First-tier Tribunal in respect of the debt—
 - (a) must make an order recalling any existing earnings arrestment,
 - (b) where the debt is being enforced by a conjoined arrestment order, must—
 - (i) if the First-tier Tribunal Housing and Property Chamber made the conjoined arrestment order, vary it so as to exclude the debt or, where no other debt or maintenance is being enforced by the order, recall the order,
 - (ii) if either—
 - (aa) another Chamber of the First-tier Tribunal, or
 - (bb) a sheriff sitting in the sheriff court,
 made the conjoined arrestment order, require intimation of the time to pay order to be made to the other Chamber or to the sheriff who must so vary or, as the case may be, recall the conjoined arrestment order,
 - (c) where a notice of land attachment has been registered under section 83(1)(c) of the 2007 Act, must make an order prohibiting the taking of any steps other than—
 - (i) the serving, under subsection (5) of that section, of a copy of the notice, and

- (ii) the registration, under subsection (6) of that section, of a certificate of service,
 - (d) where a residual attachment order has been made under section 132(2) of the 2007 Act, must make an order prohibiting the taking of any steps other than the serving, under section 133(1) of the 2007 Act, of a schedule of residual attachment,
 - (e) may make an order recalling an interim attachment,
 - (f) may make an order recalling an attachment,
 - (g) may make an order recalling or restricting any arrestment other than an arrestment of the debtor's earnings in the hands of the debtor's employer.”
- (b) in subsections (3) and (6) after “the sheriff”, on each occasion where it appears, insert “or the First-tier Tribunal”,
- (c) in subsection (4)—
 - (i) after “the sheriff” insert “or the First-tier Tribunal”,
 - (ii) omit “on him”, and
 - (iii) for “he “ substitute “the sheriff or the First-tier Tribunal”,
- (d) in subsection (4A)—
 - (i) after “the sheriff” insert “or the First-tier Tribunal”,
 - (ii) omit “on him”, and
 - (iii) for “he “ substitute “the sheriff or that tribunal”,
- (e) in subsection (7)—
 - (i) after “sheriff clerk” insert “or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”, and
 - (ii) for “he makes intimation” substitute “intimation is made”.
- (10) In section 10 (variation and recall of time to pay order and arrestment)—
 - (a) in subsections (1), (2) and (4) after “the sheriff”, on each occasion where it appears, insert “or the First-tier Tribunal”,
 - (b) in subsection (1)(a) for “he” substitute “the sheriff or the Tribunal”, and
 - (c) in subsection (3) after “sheriff clerk” insert “or, in relation to time to pay directions made by the First-tier Tribunal, a member of administration staff of the First-tier Tribunal”.
- (11) In section 15 (interpretation of Part 1)—
 - (a) in subsection (1)—
 - (i) before the definition of “adjudication for debt” insert—

““2007 Act” means the Bankruptcy and Diligence etc. (Scotland) Act 2007(2),”, and
 - (ii) after the definition of “adjudication for debt” insert—

““the First-tier Tribunal” means the First-tier Tribunal for Scotland Housing and Property Chamber.”,
 - (b) in subsection (2) after the definition of “the debt concerned” insert—

““decree”, where the context requires or permits, includes an order made by the First-tier Tribunal.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (12) In section 96(2) (provisions to assist debtor in proceedings under the Act)—
- (a) after “sheriff clerk”, on each occasion where it appears, insert “or a member of administration staff of the First-tier Tribunal for Scotland (in relation to time to pay directions made by it)”, and
 - (b) for “by him in performing the duties imposed on him” substitute “when performing the duties imposed”.