

Charge for Payment

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[1991/48](#) *Section 38(1)(a) of the Child Support Act 1991*

[1987/18](#) *Section 90 of the Debtors (Scotland) Act 1987*

[1993/920](#) *Act of Sederunt (Child Support Rules) 1993*

[2002/17](#) *Part 2 Section 10 of the Debt Arrangement and Attachment (Scotland) Act 2002*

What is a Charge for Payment?

A charge for payment is a formal written demand for the payment of sums due under a liability order (including any associated costs) within a specified time (the days of charge for payment). This is currently:

- 14 days if the debtor is resident in the United Kingdom; and
- 28 days if the debtor is outside the United Kingdom i.e. working abroad for an extended period or if their whereabouts are unknown.

The charge for payment also serves to officially notify the debtor that a liability order has been granted against them and that further action can be taken against them. If the non-resident parent did not object to the liability order application, they may be unaware that the liability order has been granted.

Each individual liability order debt requires a separate charge for payment to be executed. the charge for payment remains effective for 2 years from the date of actual service but can be re-served following expiry if further enforcement diligences need to be undertaken.

Service of the Charge for Payment

[1993/1956](#) *Sections 5.4 to 5.6, Chapter 5 (Citation, Service and Intimation) of Schedule 1 of the Act of Sederunt (Sheriff Court Ordinary Cause Rules) 1993*

A charge for payment is normally served by sheriff officers effecting personal service on the debtor. This means they must either:

- post it through the letter box / hand it to the debtor or fix it to the door of the debtor's residence or place of business; or
- leave it in the hands of another resident within the debtor's residence; or
- leave in the hands of an employer/employee of the debtor.

However, in cases where the debtor's whereabouts are unknown, service of the charge for payment can still be effected by:

- notice on the walls of the court in the sheriffdom where the debtors last known address is located; or
- through a newspaper advertisement in the area in which the non-resident parent is thought to reside.

Where additional actions are being taken by the contracted solicitors, the solicitors may serve the charge for payment by posting the notice on the sheriff court walls or through newspaper advertisements. As these are both costly procedures, they should only be undertaken in exceptional circumstances and following a brief case conference with your SEO. If authorisation is provided the contracted solicitor should be instructed to arrange this.

Service of a Charge for Payment and other actions

A charge for payment must have been served and the days of the charge for payment (14/28 days) have expired before some diligence actions such as attachment or exceptional attachment can be executed. For individual debtors a Debt Advice and Information Package must also be served within 24 hours of the charge for payment. Sheriff officers will arrange for this to be served. Failure to have a current charge for payment when any of the above diligences are executed will result in them ceasing to have effect.

An attachment, arrestment, ordinary arrestment and an inhibition can all be instructed concurrently with the charge for payment. However, the 14/28 days on the charge for payment must have expired before sheriff officers can carry out an attachment / exceptional attachment.

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Deciding whether to instruct a Charge for Payment

Before instructing a charge for payment, you must check whether a charge for payment already exists.

If an effective charge for payment does not exist, you must instruct the sheriff officers to execute a charge for payment in all cases where you intend to take further diligence action.

How to instruct Sheriff Officers

Sheriff officers are instructed using the draft letter of instruction for charge for payment template.

Remember: sheriff officers can be instructed in relation to various diligence actions simultaneously. You must therefore consider which enforcement actions you require the sheriff officers to undertake: e.g. charge for payment, inhibition, arrestment, and attachment. The letters can then be prepared, printed locally and issued along with the exact decree in one envelope to the relevant sheriff officers. This will ensure that sheriff officers are able to undertake the necessary concurrent actions to ensure maximum efficiency.

Renewal of Charge for Payment

If debt remains outstanding on a liability order and the charge for payment has already expired and further attachment or exceptional attachment diligences are required a further charge for payment can be served. You must record the discretionary decision to reissue the charge for payment and undertake further diligence. The 14 or 28 day period of the charge for payment following service must have expired before sheriff officers can carry out the proposed attachment or exceptional attachment.

Before reissuing a charge for payment the system must be checked to ensure if any previous charge for payment is either due to expire or has already expired. The current amount of the child support arrears outstanding on the liability order being enforced and the non-resident parent's address should be confirmed to ensure sheriff officers are provided with correct and confirmed details. If a charge for payment was not issued previously the sheriff officers should be instructed to issue serve the charge for payment.

The letter of instruction should be prepared as above and the extract decree enclosed along with the letter of instruction for the additional diligence required. The parent with care should then be updated that the charge for payment has been re-issued. The computer system must be updated with the actions completed and the relevant BF date to await an outcome.

Charge for Payment: Outcomes

Examine the sheriff officers report for service of the charge for payment and establish if the charge for payment was successfully served on the non-resident parent.

If the charge for payment was successfully served, you should check the service of charge for payment report to see if it contains any information we were not previously aware of e.g. details about assets held by the non-resident parent. You would then use this information to decide on the appropriate next action.

Record any costs related to the charge for payment on the system.

Charge for Payment not served

If the charge for payment has not been served on non-resident parent, it will be because the sheriff officers could not confirm the non-resident parent was at the address and tracing has been unsuccessful. In this situation, you would be unable to take further diligence action until we have been able to identify a confident address and arranged for the charge for payment to be served.

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