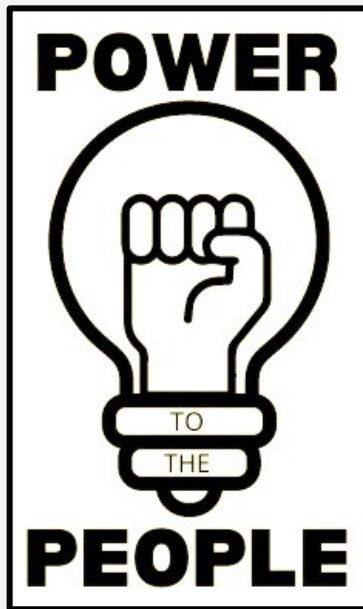
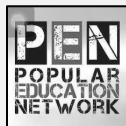


# DEALING WITH YOUR ENERGY BILLS



*A pamphlet to help deal with energy price rises and  
energy debt*

In association with



# WHAT IS 'POWER TO THE PEOPLE'?



**Power to the People** is a broad-based campaign across Scotland which was launched in June 2022 in response to the crisis of energy price rises.

We have activists who describe themselves as environmentalists, socialists, trade unionists, and of no political persuasion. What unites us is our over-riding concern about the rise in energy prices for people in Scotland and the consequences this will have.

**We all are committed to working together to campaign for three demands:**

1. A freeze on all energy prices
2. An end to late payment fees
3. Scraping the use of prepayment meters

These demands are achievable but will only be won through mass participation in a movement designed to exert maximum pressure on our elected representatives.

This pamphlet forms part of our campaign to encourage people to become informed about their energy bills and find ways to push back against the price rises which energy companies and the government are attempting to impose upon us.

The bulk of information used to write this pamphlet comes from a handful invaluable sources, namely **Advice Scotland**, **Citizens' Advice Scotland**, and the invaluable **Fuel Poverty Action Handbook**.

Whilst the Scottish Parliament has very little control over how the energy market operates, legislation concerning debt, repayments and bankruptcy are devolved powers. This handbook was written, therefore, to pull together information about energy debt and fuel poverty which is specific to Scotland and helpful to everyone, regardless of their financial circumstances.



Please feel free to copy this guide in whole or in part. We only ask that you contact our campaign before doing so and let us know how you plan to use it.

# WHAT IS IN THIS PAMPHLET?

## Use this pamphlet to:

- Understand how to deal with an unexpectedly high energy bill
- Understand how you can best deal with any energy debts you have
- Find helpful numbers and websites for more information.

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## Disclaimer

The information in this pamphlet relates only to **SCOTLAND**. Most of the information here relates to both gas and electricity payments, unless otherwise stated.

Most of the debt advice in this pamphlet refers to energy debts under £5,000. If you owe more than this, you should immediately seek professional debt advice.

All information accurate at time of publication, **August 2022**.

# 1. SHOULD YOU PAY FOR YOUR ENERGY BILLS?

**While it may be tempting to refuse to pay your energy bills considering the outrageous profiteering of the 'Big Five', outright refusal for any prolonged period will likely have profound consequences for you. Anyone contemplating refusal to pay energy bills should be aware that:**

1. Your energy supplier can request a warrant to have a prepayment meter fitted in your home. It's highly likely that such a warrant would be granted, unless you are deemed to be in a vulnerable group. Your energy bills will end up higher, and any debts will also be automatically added to the prepayment meter and reclaimed by the supplier.

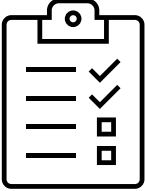
2. It's possible that your energy supplier will try to reclaim any significant debts you owe them through court decrees. This *could* end up in having your car seized (only if you own it, and don't need it for 'essential' reasons, or the car is worth less than £3,000), or forced payments through your wages or benefits (using fuel direct, see page 19), or freezing your ability to sell your home.

3. As a priority debt, defaulting on energy bill payments may have a negative impact on your credit score. If you have car loans, a mortgage, credit cards, or are likely to need to access such loans in the future, refusal to pay your energy bills might have an impact on your ability to access them.



Unlike other mass non-payment campaigns of the past (e.g., the Poll Tax), there is not yet any organised campaign of solidarity to protect those who do not pay their energy bills. The present government is also unlikely to treat anyone not paying their energy bills sympathetically. Anyone considering joining a non-payment campaign should be aware of these potential risks before choosing to do so.

## 2. WHAT SHOULD YOU DO IF YOU RECEIVE A HIGH ENERGY BILL?



Energy suppliers are increasing bills *irrespective* of individual circumstances! Even if you are in surplus to your energy company, your energy supplier **will try** to increase your monthly payments to them. This allows the company to speculate on energy markets using **YOUR MONEY!**

If you have received an unexpectedly high energy bill, you can:



**Send in the most up-to-date meter readings you have.** Most energy bills are based on estimates and may not reflect your current usage. Remember that your new bill could be higher though if you've used more energy!



**If you have a smart meter, don't assume it is giving correct readings!** Some smart meter customers have experienced technical issues whereby the meter has failed to give an accurate reading. If you have received a high bill, check the readings your smart meter has sent.



**If you pay by direct debit, you can contact your energy company to reduce your direct debt payments to an amount that you can afford.** If you are using a direct debt to pay your energy bills in addition to an outstanding debt, you can contact your energy company to renegotiate your debt payments if you find the current limit is too high. You can complain about your energy company if it refuses to do this.



**Don't pay any more than you need to.** Set yourself reminders to provide meter readings and request monthly bills which only charge you for the energy you have used.



**If you can prove you are being overcharged, use the 'Direct Debit Guarantee'.** This will get any money taken by your energy company repaid to you. Banks have to refund the money immediately, even after it is taken, if you tell them you have been wrongly billed.



**Make sure you are the named person on the bill.** It is important to inform your energy supplier of any change of address at least 48 hours before moving so that an accurate meter reading can be given.

### 3. WHAT SHOULD YOU DO IF YOU ARE STRUGGLING TO PAY YOUR BILLS?

Energy arrears are a 'priority debt', together with rent, mortgage, council tax and car finance payments. If you have multiple debts, you need to work out which debts you need to pay back first. All priority debts should be paid back over other debts like credit cards.



**YOU SHOULD ALWAYS CONTACT A DEBT ADVISOR IF YOU FEEL THAT YOU ARE STRUGGLING TO MANAGE YOUR DEBTS.**

If you are in debt with your energy bills, contact your energy supplier as quickly as possible. Energy suppliers have a responsibility to help you manage and restructure your debts. There are lots of tricks and techniques you can use to try and reduce your repayments, as long as you stand firm and do not let your energy supplier force you into repayments which you cannot afford!

#### **GENERAL TIPS AND TECHNIQUES FOR DEALING WITH A HIGH ENERGY BILL OR DEBT**

There are a number of things you could try to help you deal with an unexpectedly high bill or energy debt that you have accumulated. You will still be expected to pay for your energy usage, but these tips might either buy you some time to get your finances in order, or help you gain more control over your finances.

**1**

**Cancel your Direct Debit and switch to monthly payments based on the energy you use.**

If you have been on a standard variable tariff (where you pay every month for what you use), and you have been paying by direct debit, you might suddenly find that your bills have increased dramatically.

To get control over your bills, you could cancel your direct debit and instead send monthly meter readings prior to your bill being sent to you. In effect, this is how energy bills used to be sent! But you must make sure to send regular meter readings, as it is the only way to ensure energy suppliers are not giving you an inaccurate bill. You should also be aware though, that you may lose a discount by paying by direct debit, and in the longer term, paying in this way may affect your credit score.

**2****Use your energy supplier's complaint's procedure to your advantage.**

If you are struggling to pay a debt, and if you feel *in any way* that your energy company has not taken account of your needs, you should complain (see section on 'How can you use the complaints procedure to your advantage?' on page 10). This will freeze debt proceedings against you and buy you time to sort out your debt.

Other campaigners have suggested that customers also complain more as energy companies incur fines when complaints are not dealt with in time. This could be a tactic for forcing change in the energy system.

**3****Contact a debt advisor for expert help.**

Local councils, independent debt advice services, and Citizens' Advice Scotland all offer impartial advice about how to resolve debt problems. There is a list of contact details at the end of this pamphlet which you may find helpful. They may, for example, be able to help you access any energy hardship funds which are available to you.

**4****Ask to be placed on the 'Priority Services Register.'**

Every energy supplier has a 'Priority Services Register'. It is primarily aimed at those who are:

- disabled or have a long-term health condition
- are recovering from an injury
- have mental health problems
- do not speak or read English well
- have children under 5 or are pregnant
- have reached the state pension age
- People who have spent time in residential care
- the recently bereaved.

While the register may not stop you having a pre-payment meter installed or from being disconnected, it *may* count as evidence that you deserve to have your case listened to more favourably should you get into financial difficulties with your energy supplier. Besides this, there are other advantages to being on the register such as being a priority reconnection in the case of a power outage.

## 4. WHAT SHOULD YOU SAY WHEN CONTACTING YOUR SUPPLIER?

### What should you do BEFORE you contact your energy supplier?



- You should be able to find contact details for your energy supplier on any letters you have from them, or on their website.
- Check the cheapest way to get in touch with your energy supplier. Most companies provide freephone numbers or a 'call-back service' if you are unable to afford the costs of calling your supplier.
- Write down everything you want to discuss with your energy supplier before you contact them. Have important information to hand.
- The supplier **will** try to pressure you to repay your debts. Having a clear idea of what you want to say (and what you want to agree to) before speaking to them about your debts will help avoid you agreeing to repayments you cannot afford. If you're nervous, you can ask someone to speak on your behalf.
- Your energy supplier will want to know about your expenses and sources of income. You can prepare for this by filling out a budget sheet.



You can access a good budget calculator online by going to the following website: <https://www.advicecotland.com/budget-calculator/>

### What should you tell your energy supplier about your debts?



- Tell your creditor that you are struggling to pay and explain why. Be honest and upfront. For example, a sharp increase in your gas or electricity bill may mean that you don't have enough money to meet other payments.
- If you have completed your budget sheet, let your creditor know what it shows or provide them with a copy of your budget summary. This will



help your creditor understand what options are realistically available to you. You can ask a debt advisor to help with this. **Always be generous with your estimates!**

- If you have a disability or are suffering with poor physical or mental health, let your creditor know if this makes it more difficult to deal with your finances or to deal with them. Your creditor may have a specialist team that can offer you more support if you are vulnerable.
- Ask your creditor how they can help you. Don't feel pressured into accepting a particular option straightaway. Let your creditor know if you would rather make a note of what your options are and then take time to work out what suits you best. You could speak this over with a friend afterwards.
- If you have not already had debt advice, ask your creditor to give you time to get advice. See the section in this pamphlet '**How can you deal with your debts?**'.

## **When you speak to your energy company make sure that you:**



- Explain **ALL** the individual circumstances that have affected your ability to pay your energy bill.
- Provide your energy supplier with a budgeting sheet, showing your income and all your expenditures (a debt advisor can help here).
- **Do not agree** to repay any debts until you are sure that you are responsible for them and can afford the repayments.

## **Your energy company has a responsibility to:**



- Take your personal circumstances into account
- Make it easy to discuss your ability to pay – don't let them bully you! Remind them of their conduct!
- Contact you in an appropriate timeframe if you miss repayments, and discuss alternative repayment plans. **If you don't think they have done this – complain!**

**If the person you are speaking to on the phone is unhelpful, uncooperative or unwilling to meaningfully negotiate based on your own personal circumstances, ask to speak to someone more senior.**

If you still do not feel able to agree to the energy supplier's repayment terms, contact a debt advisor more help or complain!

Once your energy supplier knows you are struggling to pay your bills, they **MUST** accept regular instalments based on your agreed plan (as long as you stick to it too!). They should also give you advice on how to save energy at home.



## **KEY POINTS TO REMEMBER!**

- In drawing up a budget sheet, never underestimate your expenses!
- Energy companies will bully you into paying as much as possible as quickly as possible. **NEVER BE BULLIED.**
- Ask for time to think about any repayment offer they make. (Remember if you are being charged interest delays can be costly – but being hasty can lead to bad decisions, too).
- Complain if necessary and seek debt advice. The complaints procedure can be *very* effective if used correctly.
- Ofgem claim that the installation of a prepayment meter is a last resort to reclaim debts. Yet energy companies often use this as a first threat! Always ask for time if you are threatened with this! Use any excuse you can (within reason!) to ask for more time to pay. Think carefully about how you can repay any debt in a way that is affordable to you.

## 5. HOW CAN YOU USE THE COMPLAINTS PROCEDURE TO YOUR ADVANTAGE?

One tactic you can use – both to delay payments of your energy debts and buy time to find a way to pay outstanding bills – is to raise a complaint.

You may have a very strong case for complaining, such as your supplier not taking account of your personal circumstances when trying to determine how much money you should repay. However, you can try to complain about *any aspect* of their handling of your case to buy yourself more time.

**The procedure for raising a complaint against your energy supplier is as follows:**

- 1 Write a letter of complaint to your energy supplier.** Once the complaint has been raised, your energy supplier cannot bring any debt collection action against you. They cannot pass your details to credit card reference agencies either. Be aware though, you may still incur late payment fees and other interest charges (typically 4%). Keep records of all your communication with them.
- 2 Your energy supplier has 8 weeks to respond to your complaint.** They will attempt to put pressure on you to drop the complaint. This may include a small reduction in the amount they want to bill you for. If you feel that you have a strong case, do not settle for this amount. Eventually, when neither side can agree a way forward, a letter of 'Deadlock' will be sent to you, explaining that your energy supplier is not prepared to offer any further concessions.
- 3 Escalate your case to the Energy Ombudsman.** Having received a letter of 'deadlock', you should now send your case to the Energy Ombudsman. *For every case* the Ombudsman receives, your energy supplier is charged £500! Your energy company also receives fines based on not processing complaints fast enough, or in having too many complaints open at one time. If you really want to hit your energy supplier at their bottom line – complain!
- 4 Make a 'Subject Access Request'.** You can request every piece of information your energy supplier has on you – from personal details, bill payments, to phone transcripts. It is very laborious and expensive for your energy supplier to do this, and again affects their ability to operate efficiently if thousands of customers request this information.

## 6. HOW ELSE CAN YOU DEAL WITH YOUR ENERGY DEBTS?

As soon as you realise you are in energy debt, you should contact your energy supplier. There are many options to help with your debt problems. Ignoring your debts do not make them go away but often make the problem worse.

You may owe money only to your energy supplier, but you may also have other debts. It is best to understand exactly how much you owe to all your creditors and look at your debts holistically. The options listed here are helpful for – but not necessarily specific to – energy debts.

If you cannot agree a repayment plan with your energy supplier (see pages 5-6), then you should read more about each of these options, and consider which one might be best for you to consider as a strategy for dealing with your debt:

- 1. Token Payments.** These are payments of around £1-£5. It indicates to your energy supplier that you *do* owe the debt they claim, but that you do not have the current means to pay it. In return, your supplier should freeze all interest and charges that the debt is incurring. This is typically a short-term strategy and agreed informally with the creditor.
- 2. Informal Moratoriums.** You can ask for a temporary freeze on all debt payments. You will need to ask ALL your creditors (not just your energy debts) to be granted this. You will need to provide an expenditure sheet showing all your sources of income and expenditures to show that you cannot pay your debts. You should get help from a debt advisor or from Citizens Advice Bureau to make sure your application is considered legitimate.
- 3. Statutory Moratoriums.** These are best used when you have received notification that a Sheriff Officer has been given the power to seize your wages or freeze assets. A Statutory Moratorium places a six-month freeze on all your debts. It prevents debt agencies (and other creditors) from being able to reclaim their debts from you (see more on page 11).

**4. Debt Arrangement Scheme.** This is run by the Scottish Government to help people pay back debts without the threat of court action. It is most useful for people who can afford to make regular payments on their debts and who have multiple debts with different creditors.

You make one regular payment to the programme, and this amount is divided up among your creditors. Interest fees and debt charges will be frozen once you are enrolled.

You will need to speak to a debt advisor to enrol yourself onto this scheme.

**5. Time to Pay Directions and Orders.** These are legal devices which can be used when you accept that you owe a debt to an energy company. A 'Time to Pay' is a request for exactly this – you are requesting more time to pay your debt.

If a Sheriff accepts your application, you will normally have 24 months to pay your debt (either in full or in instalments). While this will protect you from having your wages or benefits arrested, or from being forcibly declared bankrupt, you may still be getting charged interest on any debt you have (**on average this is about 8%**!).

A **direction** can be applied for *before* a case has been decided by a Sheriff. An **order** can be applied for once the case has been heard and decided against you and a 'Charge for Payment' made (the legal term which demands payment of the debt within 14 days or face having wages arrested, or worse).

**6. Bankruptcy.** You can in some instances be forced to go bankrupt if you owe the creditor more than £10,000 (this pamphlet does not deal with such scenarios).

You can, however, choose to declare yourself bankrupt, in which instance a trustee (a legal body) will control all your property and belongings (assets) with the aim of repaying as much of the debt as possible.

You may have to make regular payments for **up to four years** and may have to sell some of your assets (such as your home). You should speak to a debt advisor immediately if you are at risk of going bankrupt or think that this is an appropriate course of action for you.

- 7. Minimum Asset Bankruptcy.** If you have only been in receipt of state benefits for six months and do not own your own home, you may be able to apply for a minimum asset bankruptcy.

There are *many* conditions you have to meet before you can apply for this, and there is a small administrative fee (approx. £50-£90) you will have to pay, but the advantage can be that after six months you can be debt-free. (You can get a fee waiver on this, and about 80% of people are able to do so). There are consequences to declaring bankruptcy, however, including the ability to borrow money in the future, and you should be aware of this before taking this option.

- 8. Write-Offs.** Energy companies can be surprisingly open to writing off debts, either partially or in full. How much your supplier will be willing to deduct from your debt will depend on several factors such as: how old the debt is, how difficult the debt has been to recover so far, your individual circumstances and likelihood of repaying the debt in full.

One way to do this is to offer a single payment to cover part of the debt. Another is to ask the energy supplier how much debt they would be willing to forego. Full write-offs generally are best suited to those whose personal circumstances might merit it (e.g., disabled people, long-term sick).

All of these options have their own advantages and disadvantages for people dealing with debt. In addition, there are many conditions not listed here that may affect your eligibility.

You should use the links below to read more about these options, and which ones may be best suited to your situation. In any case, you should speak to a debt advisor or contact the Citizens Advice Bureau who will be able to look at the entirety of your situation and will be able to offer professional help in dealing with your debt.



**Read more about your debt options:**

<https://www.advicescotland.com/debt-solutions/>

<https://www.citizensadvice.org.uk/scotland/debt-and-money/help-with-debt/>

## 7. WHAT COULD HAPPEN IF I CANNOT PAY MY DEBTS?

In Scotland, there are two types of court action the energy provider is likely to take to reclaim their debts:

- 1. To install a prepayment meter.** Under the 'Rights of Entry (Gas and Electricity Board) Act (1954)', they will go to court to try to gain a warrant to gain entry into your home and install the meter.
- 2. They will try to reclaim the debt.** The energy company will start by seeking a **Court Order** from the court. They will use this if they believe you have the means to repay the debt (or at least at some part of it at some point in time). If this is likely to be the case, this would be the moment for you to apply to the Sheriff for a **Time to Pay** direction (see page 12).

The rest of the following information in this section assumes that your energy company is pursuing you for debts of less than £5,000. If you owe more than this, you should consult the weblinks provided here for more information, and seek a debt advice expert urgently.

### When will I know that court action has been taken against me?

First, your energy supplier will lodge a **Court Order** against you. This is the legal term for the means by which they will go about trying to reclaim the debt. They will lodge the Order at the local **Sheriff Court**: this is Scotland's lower-level court for civil (i.e., non-criminal) matters.

They will also be using a court procedure known as **simple procedure**. All this means is that the debt is low enough (between £3,000-£5,000) to be fast-tracked through the court system (because it is considered that the case will be less complex), and that case is not as serious as others (this means some of the rigid formalities of the court system are often dropped).

**You will then receive your copy of the Court Order in the post. These will include:**

1. **A Claim Form.** This explains who the *claimant* is (the person / entity seeking the money), how much money they are claiming, and the reasons for the claim.
2. **A Response form.** As *the respondent*, you are strongly advised to return this form. **DO NOT** ignore it! You should respond either by saying you want to dispute the claim against you, or that you accept you owe the money. Remember -- if at any point you have admitted you owe the energy billed, this will count against you in court.
3. **A Timetable.** This will tell you by which time you must complete and post back your response form.
4. **A blank 'Time to Pay Direction' application.** You can use this to ask to repay the debt by instalments and when you cannot pay the debt in full immediately.

## **What if I do not dispute that I owe the debt?**

If you accept you owe the energy supplier money, on receiving court documents you should seek debt advice. Speak to an independent debt advisor or contact National Debtline for more advice (see the contact details on page 33).

### **Key Points to Remember:**



- Speak to a debt advisor first!
- Respond to the court documents as soon as you have sought advice.
- Consider applying for *Time to Pay*.

If you ignore deadlines, pretend you did not receive court documents, or don't respond to court letters, then you can expect that an **open decree** (decision) will be made against you, and you will have to pay your debts plus the court expenses of the energy company.



## What will happen next?

If you have accepted you owe the debt, you will need to start paying back the debts immediately.

If both you and the energy supplier have agreed to a **Time to Pay Direction**, you should set up payments in line with this agreement. The court will grant a **decree**, and this means that you have entered into a legally enforceable agreement to pay back the debt according to the conditions of the Time to Pay Direction.



**You can still attempt to renegotiate payments at a later date if you begin to find that the Time to Pay Direction is unaffordable.**

However, if both you and the energy supplier cannot agree a way to resolve the debt, a Sheriff will review the case. She or he may decide to:

- arrange a court hearing
- refer you and the energy supplier to an alternative dispute resolution
- arrange a case management discussion
- dismiss the energy company's claim if it is obvious it cannot succeed.

**More seriously, the Sheriff could also:**

- decide the case without a hearing (they will tell you if they are considering this)
- grant a **decree** (decision) against you and dismiss your claim if it is obvious you cannot succeed.



**Read more here for information about Sheriff court procedure:**

<https://www.nationaldebtline.org/fact-sheet-library/sheriff-court-action-s/>

If you take no steps at all to contact your energy supplier about your debts, your energy company may apply to the Sheriff Court for a warrant to enter your home and install a prepayment meter or, more seriously, declare you bankrupt.

**It is never too late to get in touch with your supplier about your debts, or to speak to a debt advisor.**

# 8. WHAT HAPPENS IF I FIND MYSELF GOING TO COURT?

**You will receive a court hearing in the Sheriff Court only if:**

- You have chosen to dispute the debt, and...
- Your energy supplier does not accept your offer to pay back the debt (made through the **Time to Pay Direction**), and...
- ...the sheriff thinks there is a case to be heard.



A hearing date will be set, and you will be notified of this.

**Prior to any court action, you should be sure that:**

- 1. The court sends you a letter to tell you when and where the court hearing will take place.** Make sure you know where to go and at what time.
- 2. Even after being summoned, you can still avoid court.** Contact the legal department of the energy supplier (or the details of the most senior member of staff you have been dealing with) and:
  - Try to negotiate and put in place a payment plan;
  - Inform them of any vulnerabilities you have;
  - Tell them that you intend to challenge the case and on what grounds you will do so. You could make reference to the industry's **Standard Licence Conditions 27** as a basis for your challenge.



**Remember:** energy suppliers are more concerned about current ability to pay, rather than previous debts, so you can still avoid court action at this time!

- 3. You have sought legal advice.** You can either seek a solicitor to represent you, or seek free legal advice from Citizens' Advice Scotland, the Scottish Association of Law Centres, or Money Advice Scotland.
- 4. DO NOT** pay for legal representation in these cases -- always seek advice and try to find the most appropriate form of representation for your circumstances. Generally if your debts are under £5,000 not only would it be costly to pay someone to help you be represented in court, but there are also lots of free options open to you which will be just as effective.

In preparing for disputing any court action, you should read 'Condition 27' of the '**Standard Conditions of Supply Licence**' (pp. 217-221) and try to find any section of the conditions to which your supplier has not adhered. You may need to have evidence to prove your case. You can find a copy of the Standard Conditions here:



<https://epr.ofgem.gov.uk//Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

## In attending court, you should be sure that:

- 1. You know who is representing you.** You could get a solicitor or debt advisor to go to court and represent you. You could seek out a 'lay representative' – someone who you empower to speak on your behalf (you need to submit the form 'Lay Representation Form 2A' to do this). Or you could represent yourself. You are also entitled to have a friend present (a court supporter) to take notes and quietly give you advice.
- 2. Get to the court in good time prior to the hearing starting.** You might be able to:
  - Inform the court usher that you are here to dispute the case
  - Speak to the energy supplier's representative and negotiate further
  - Speak with a duty solicitor for advice
  - Make sure you are sure about what you want to say.
- 3. Make sure you have as much evidence with you as possible.** Bring budgeting sheets, proof of income, records of discussions with your energy supplier, or any other evidence you feel supports your case.
- 4. Ask for a Debt Arrangement Scheme.** Even during and after court hearing, you can apply for more time to sort out your debts or put a payment plan in place. Read the section 'How else can you deal with your energy debts?' for ideas about what avenues are open to you here.
- 5. Try to find a solution after the court hearing.** If debt is under £5,000 the court cannot do anything for 28 days after the court order is granted, so you still have plenty of time to get advice and take action (e.g., apply for a debt moratorium).

## 9. WHAT COURT ACTION MIGHT BE TAKEN AGAINST ME?

**Court action will be taken to uphold the Court Order once a Sheriff has reviewed your case (either with or without a hearing).**

If the Sheriff decides against you and that you must repay your debt, the court will empower the Sheriff Officer (an officer of the court) to enforce payment.



**Diligence** is the term in Scots law for 'enforcement'. It is the steps a creditor can take to get their money back after they have taken court action against you.

### How will the court action be enforced?

Before any money is reclaimed or your wages arrested, the energy company and court will have a few more hurdles to jump through. This gives you yet more time to try and arrange to pay your debts (or put in a plan to do so) before any enforcement takes place.

- 1** First, the energy supplier will have to wait 4 weeks (28 days) after the decree before they can take any action against you.
- 2** After this time has passed, the creditor must then serve a **Charge for Payment** on you. This is a legal document and will have 'Charge for Payment' written along the top. A further two weeks must pass before you can expect action to be taken.
- 3** In this period, you could consider applying for: a Debt Moratorium, to join the Debt Arrangement Scheme, or for a Time to Pay Order. You could still pay the debt at this stage.

## Bank Arrestment

This will freeze your bank account until you give permission, (or a **mandate**), either to pay the debt in full, or an agreed amount towards it. If you don't sign this, the creditor can raise a 'forthcoming action'. This would order the bank to release the funds to the energy supplier automatically after **14 weeks**.

If your creditor wants to arrest funds you have in a bank or building society account, their agent will usually send letters of arrestment to the major banks and building societies. If any of them hold an account in your name, your account will be frozen.

There is a limit on what can be arrested in your bank account. A minimum of **£1000** must be left free from arrestment. This amount is known as the 'protected minimum balance'. Also, certain funds such as benefits and tax credits should not be arrested if they can be clearly identified.

## Wage Arrestment

Once a creditor has served a charge for payment on you, and the time limit stated on it has run out, the creditor may ask your employer to take regular deductions from your wages to repay the debt you owe. Your employer has a limited time to put the arrestment into practice. The deductions will be made from your 'net income'. Alternatively, you may be able to agree with your creditor direct a fixed deduction from your wages. This avoids your employer having to do a separate calculation each pay day.

The creditor must send you a Debt Advice and Information Package no earlier than **12 weeks** before serving an earnings arrestment. 'Serve' means to deliver the documents to you in the correct way. This has to be in the form set by the Scottish Government. It will explain your rights and give you details of how to get advice. If they do not do this, any earnings arrestment will be illegal.

## An attachment of property outside your home

A sheriff officer acting on behalf of the creditor may decide to try and arrange the seizure and sale of some items of your personal property. They can only do this

once you have been sent a **charge for payment** and the time limit stated on it has run out. The creditor's right to try to seize property outside your home is different to their right to seize property inside your home.

- An 'attachment' of personal property is where Sheriff Officers seize property outside of your home.
- An 'exceptional attachment order' (EAO) is where a Sheriff Officer seizes property inside your home. This should be a last resort and the creditor would have to apply to the Sheriff Court before they can do this.

Before making an attachment, the Sheriff Officer must show you the summary warrant and give you a last chance to pay the debt and expenses.

**Sheriff officers cannot try to seize:**

- any tools of trade, books or other equipment that you reasonably require to carry out your profession, trade or business, up to a total value of **£1,000**
- any vehicle you reasonably require up to the value of **£3,000**
- a mobile home if it is your only or main residence
- any tools or other equipment reasonably required for the purpose of keeping your garden in good order.



If you try to obstruct entry to the Sheriff Officer once they have warrant, you may receive a fine of up to £1,000. You might also be found guilty of breach of the peace or contempt of court. This is also true if you try to sell or give away items before seizure.



If the Sheriff grants a warrant to allow the energy supplier to enter your home, the warrant will be time-limited (usually 28 days). If the warrant expires, the supplier would have to go to court to re-apply for a new warrant



**Read more about the actions the court and energy suppliers can take against you and what action you can take here:**

<https://www.nationaldebtline.org/fact-sheet-library/diligence-s/>

## 10. WHAT ARE DEBT MORATORIUMS, AND HOW CAN THEY HELP YOU?



If you are worried that the level of debt that you have might lead to Sheriff Officers taking action against you (to forcibly take payments from your wages, freeze your assets), or that your creditor might force you to declare you bankrupt, you can use a Statutory Moratorium to protect yourself. It is a particularly useful way to gain breathing space to sort out your debts.

A Statutory Moratorium places a six-month freeze on all your debts. It prevents debt agencies, and other creditors from being able to reclaim their debts from you. It can also stop other movable items outside your home from being seized (e.g., a car).

While you can ask for a moratorium at any time, the most effective time to use it is when a creditor has secured a warrant for the reclamation of any debts you owe, but before the warrant is executed.

Debt Moratoriums are useful for people who live in Scotland and have been unable to agree with their creditors about the level of debt repayment that should be made.

Debt moratoriums do not stop interest being accrued and you can only request one debt moratorium in any 12-month period, so they do not offer a long-term solution to your debts. You should use any moratorium to try and find a way to repay any money you owe.



To apply for a debt moratorium, you should download and fill out a **'Bankruptcy (Scotland) Regulations 2016 – Form 33 – Moratorium – Intention of Notice to Apply'** form. You should then send this form to [moratorium@aid.gov.uk](mailto:moratorium@aid.gov.uk) or post it to:

Moratorium Application  
IRT, Accountant in Bankruptcy  
1 Pennyburn Road  
Kilwinning, KA13 6SA

# 11. HOW COULD YOU AVOID A PREPAYMENT METER BEING INSTALLED?

Your energy supplier may put you under considerable pressure to have a prepayment meter installed in order to reclaim money you owe. Most suppliers prefer to force customers to have these installed to reclaim debts and avoid outright disconnection – although given that many customers cannot afford regular payments on their energy bills, this often leads to self-disconnection.



If there is *any* reason you think means that you are not suitable for a prepayment meter, you can request an alternative form of payment. (See the section on '**How you can use the complaints procedure to your advantage**' if you think you have had, or will have a prepayment meter installed unfairly.)



Your supplier **cannot** force you to have a prepayment meter installed if doing so would be severely traumatic for you, due to your mental or psychological state. You could speak to your GP to provide evidence for this.



If there is anyone in your household classified as a vulnerable group (elderly, disabled, ill, with very young children), then you cannot have a prepayment meter installed. You need to make sure you tell your energy supplier about these vulnerabilities when speaking to them. This may mean they will not press you to accept a prepayment meter.



If there are any mitigating circumstances that have prevented you from dealing with your debts, you should not be charged for a prepayment meter being installed.



Your energy supplier may be demanding payment for energy used over a year ago for which you have not billed. This is called 'back billing'. You should remind the supplier of this and complain if the supplier threatens you with a pre-payment meter.



Being registered on the **Priority Services Register** (see page 7) won't stop them fitting a prepayment meter, but it *could* help to build a case against fitting one should they try to threaten you.



<https://www.ofgem.gov.uk/getting-extra-help-priority-services-register>



If none of the above applies, then you will need to try and put in place your own payment plan (see section on '**What should I say when contacting my energy supplier?**' on page 7). If you can demonstrate a willingness to make some payment towards your energy debts, you *should* be able to resist a prepayment meter. You should try to remember that:



**You will need to work out your income and your essential expenditure and other debts.** The central determining factor in deciding your rate of repayment is your ability to pay.



**Your energy supplier needs to allow you to have money spare to pay food and pay rent!** Show them your income and your expenses, including money owing for other debts. The energy supplier has a responsibility to fix repayments at a rate you can afford. If you don't feel they have done this, use the complaints procedure!



If your only income is through benefits, you can choose to sign up to **Fuel Direct** – the UK government scheme that allows you to pay for fuel or fuel debt direct from your benefit payments. The maximum rate of deduction is 5% of your energy bills, or at least 5% (to a maximum of £108.35) per month for energy debts.

**NOTE:** You can renegotiate payments through the scheme. Since Covid-19, suppliers cannot force you to repay through Fuel Direct if you are not already signed up, but you can choose to enrol yourself onto the scheme if you feel it will help you keep on top of payments.

### Remember!

- Your energy supplier **MUST** have a warrant from a Sheriff to install a prepayment meter, and you must be informed of this.
- Energy companies **MUST** give you **SEVEN days notice** before a prepayment meter will be installed. You can refuse entry if they do not!
- The installation of a prepayment meter should be a matter of last resort for an energy company. You should attempt as many of the previous strategies above as possible in order to avoid the forced installation of a prepayment meter.



**Read more about prepayment meters here:**

<https://www.citizensadvice.org.uk/consumer/energy/energy-supply/get-help-paying-your-bills/stop-your-energy-supplier-installing-a-prepayment-meter/>

## 12. WHAT ARE MY RIGHTS ON A PREPAYMENT METER?



**You have a right to have your meter installed in a place that is easy and accessible for you to use.** This is particularly true if you are elderly or disabled. If you cannot reach your meter safely, you have a right to request the meter be moved by your supplier for free. (This is true of any meter.)



**You have a right to have any debt collected through a prepayment meter set at a rate you can afford.** You must stand firm and not let yourself frequently be self-disconnected through lack of funds. Negotiate with your energy supplier. Stand firm. Do not let them tell you the meter's rate cannot be changed – it can!



**You have a right not to be switched off at night.** While you might want to be careful about your usage so that you still have a supply of energy in the morning, energy companies should have 'friendly hours' at night when your supply cannot be disconnected.



**If you move into a property with debt on prepayment meter, you have a right not to pay this debt.** Energy suppliers might claim that if you pay the debt, they will reimburse you at a later date. Do not do this. You should call the supplier as soon as you move into the property with a meter reading, and have the meter reset.



**You have a right to switch energy suppliers on a prepayment meter, but only if your debt is less than £500.** It is rare that people are able to do this, and it is even less common to find competitive rates on prepayment meters, but nonetheless you should try and see if there is a deal that suits your circumstances. Use the websites such as [www.uswitch.com](http://www.uswitch.com) or [www.UKpower.co.uk](http://www.UKpower.co.uk) to look for energy deals. 'Duel fuel' accounts are always cheaper than having two separate suppliers.



**You have a right to have a prepayment meter uninstalled.** You will need to have paid back all of your debt, pass credit checks and be able to set up a direct debit before an energy supplier will do this. You may have to pay the cost of installation, but in the long term this could be to your advantage.

## 13. ADVICE FOR TENANTS AND THEIR ENERGY BILLS



### Can I change my supplier?

Yes! Unless otherwise stated in a tenancy agreement, all tenants have a legal right to change their energy supplier at any time.

Remember! Before you change your energy supplier, you **must** check your letting agreement first. For example, there may be tie-ins to specific energy companies for a fixed period (e.g., six months), after which time you can change supplier. Any conditions must be stated on your tenancy agreement.

You are **NOT** responsible for any exit-fees that a change of energy supplier incurs if your tenancy agreement does not place conditions on your change of supplier.



### Can I change my meter?

Yes! Again, unless otherwise stated in a tenancy agreement, all tenants have a legal right to change their energy meter, as well as form of payment, at any time. You are also free to arrange your preferred method of payment.

As long as you have a good credit rating, and are able to set up direct debits on your bank account, you should be able to request a change of meter (usually a smart meter will be installed instead.) Most suppliers do not charge for this service! If your supplier does try to do this, you could threaten to change supplier to negotiate a free installation.

Remember, too, that smart meters can be turned back into a prepayment meter remotely, so there can be disadvantages to having one of these installed in your home.

You must make sure you check your tenancy agreement before you do this, and your energy company will undertake a background credit check to make sure you are able to keep up payments.

You should seek the agreement of your landlord before you do this – some landlords may ask you to reinstall a prepayment meter if you end your tenancy agreement, and keep some of your deposit if you do not!



## What should I do if I think my landlord has been overcharging me for energy?

If you suspect that your landlord has been over-charging you for your energy usage, you should ask to see any or all bills that relate to the period that you think you have been overcharged and compare actual meter readings with the amounts billed.

If you have been over-billed, you should request a refund from your landlord and make arrangements to change the payment plan.

In extreme situations, you can seek compensation through the small claims court.



## What should I do if my landlord bills me for my energy?

If your energy costs are included in your letting agreement, your landlord should clearly state in the letting agreement how your energy usage is calculated.

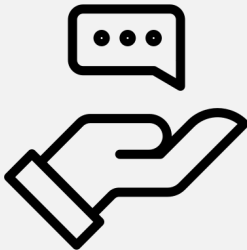
You can **only** be asked to pay for:

- The energy you have actually used
- Your share of the standing charge (a flat fee that is on every energy bill)
- The VAT owed (5% for energy).

In rare instances where a home does not have its own meter, your landlord should estimate your bill as accurately as possible.

**If you are in any doubt about your energy bill's accuracy, you are legally entitled to see monthly bills that are in your landlord's name.**

## 14. FINAL TIPS AND ADVICE WHEN DEALING WITH YOUR SUPPLIER



**Always seek help as soon as you realise you are having money problems.**

**Remember when dealing with your energy bills that:**

- You should check to make sure you are claiming as many state benefits as you are entitled to. Citizens' Advice Scotland can help with that.
- The energy supplier is more concerned about you paying for your current usage, rather than debts. Keep paying current bills while negotiating debts.
- If you can pay for what you are using and can pay something, *even token amounts* towards your arrears, you **should not** be disconnected.
- A prepayment meter should always be offered as an alternative to disconnection.
- No one of pensionable age who lives alone or lives only with persons who are of Pensionable Age or under the age of 18 should be disconnected between the months of October-March.
- You have a right to choose how to pay off your debt.
- Energy supplier staff have an obligation to treat you sympathetically. If you feel that they are not listening to your situation, this could be a perfect reason to use the complaints procedure against the supplier.
- Keep records of all communications with your supplier – email is best. Make sure everything is agreed in writing. Keep names and direct phone numbers of the people you speak to.
- Energy suppliers cannot reclaim debt from you if they have not billed you for it before, and over one year has passed!

## 13. GRANTS AND FINANCIAL AID FOR THOSE IN ENERGY DEBT

In this section you can find phone numbers and contact details for the some of the biggest energy suppliers' Energy Funds. You will need to be assessed for your eligibility and will be expected to provide financial information including bank statements and proof of income. There is also an assumption that, in applying for these funds, you intend to pay off some or all of the debt owed, and that you have the means to maintain regular payments on your debt.

**Even if you do not think you are eligible, you should still try and apply for help.**

### **British Gas Energy Trust**

Individuals and families can apply for grants to clear domestic gas and electricity debts. Before applying to the Trust you must get money or debt advice first.

Anyone can apply to the British Gas Energy Trust fund. You do not need to be a British Gas customer to do so.

→ <https://britishgasenergytrust.org.uk/grants-available/>

### **Scottish Power**

The fund is open to Scottish Power customers to reduce arrears and get payments under control. Customers first need to seek debt advice and check availability through the debt advice charity StepChange, then by applying through Social Enterprise Direct, the organisation which administers the fund.

**Step One:** Phone StepChange on **0808 138 1111** lines open Monday to Friday 8am to 8pm, Saturday 8am to 4pm.

**Step Two:** Phone Social Enterprise Direct on **0808 800 0128**. Lines open Monday to Friday, 8.30am to 8pm, and Saturday 10am to 2pm.

→ <https://community.scottishpower.co.uk/t5/Extra-Help/Hardship-Fund/ta-p/53>

### **Ovo Energy Fund**

No named fund is available, but Ovo Energy claim to offer discretionary funding to customers struggling with energy bills. The fund is aimed at those with debts of over £150 and who earn less than £16,190 a year. Ovo customers need to contact the supplier directly to discuss access to the fund.

→ <https://help.ovoenergy.com/article/4071c56f-de7d-465e-a02d-b35ce23b58a8-web>

### **E.on Energy Fund**

The E.on Energy Fund is explicitly open only to those who can commit to at least three months of regular repayments on their debt. However, this should not stop you from applying even if you do not think this applies to you. You can also apply for grants for replacement appliances.

→ <https://www.eonnextenergyfund.com>

### **EDF Energy**

Similar to E.on Energy, EDF's fund is managed on a day-to-day basis by a third sector organisation Charis. You may also be eligible for grants to replace old, inefficient or malfunctioning appliances.

<https://charisgrants.com/partners/edf-energy/>

### **Octopus Energy**

Through the website, you will able to find out your eligibility for Octopus's energy debt fund through a few simple online questions. If able to claim from the scheme, you will be able to apply for a grant to help with your bills and receive debt relief. In addition, Octopus offer additional support for energy bills including loans, and also help with energy saving, such as thermal imaging of your home to see how you can save energy use.

→ <https://octopus.energy/blog/struggling-to-pay/>

### **Bulb Energy**

The energy fund for Bulb Energy is operated by the Plymouth Citizens' Advice Bureau. To access the fund, you will need to call Bulb Energy directly, and be assessed for your eligibility over the phone. Bulb will then refer your case to the Energy Fund.

**0300 30 30 635**

→ <https://citizensadviceplymouth.org.uk/bulb-energy/>

## 14. USEFUL WEBSITES AND FURTHER INFORMATION

There are many debt advice agencies around Scotland that offer free and impartial debt advice. You can find your nearest advisor using the following link:

<https://www.adviceScotland.com/find-your-local-advice-agency/>

The websites listed below also offer debt advice and support regarding benefits payments, debt and other money- and energy-related issues:

### **DEBT ADVICE FOUNDATION**

[www.debtadvicefoundation.org](http://www.debtadvicefoundation.org)

0800 043 40 50

### **NATIONAL DEBTLINE**

[www.nationaldebtline.org](http://www.nationaldebtline.org)

0808 808 4000

### **CITIZENS ADVICE SCOTLAND**

<https://www.citizensadvice.org.uk/scotland/>

0808 223 1133

### **PAYPLAN**

[www.payplan.com](http://www.payplan.com)

0800 280 2816

### **ADVICE SCOTLAND**

[www.adviceScotland.com](http://www.adviceScotland.com)

### **MONEY ADVICE SCOTLAND**

<http://www.moneyadviceScotland.org.uk/help-for-people-with-money-worries>

### **GLASGOW'S ADVICE AND INFORMATION NETWORK (GAIN)**

[www.gain4u.org.uk](http://www.gain4u.org.uk)

### **SCOTTISH WELFARE FUND**

<https://www.mygov.scot/scottish-welfare-fund>









This pamphlet is a collaborative effort from activists working in the 'Power to the People Campaign' and in 'Popular Education Network Scotland'. To help us in our campaign, you can:



**Share this pamphlet!** Pass this along to anyone who may find the information useful. Or you can direct people you know who need help to our websites, where you can download a copy of this document for free.



**Print this pamphlet!** You can download and print as many copies as you like for distribution within your own networks.



**Join us!** If you are interested in finding out more about what we do, in helping out in our work, or in establish local networks of either group, please use the contact details for each group listed below:



The Power to the People campaign was set up in June 2022 to campaign against the dramatic rise in the energy price cap, as well as push for action on fuel poverty. It is a loose, grassroots coalition of activists with networks existing throughout Scotland.



[Powertothepeople2022@gmail.com](mailto:Powertothepeople2022@gmail.com)



[@pttpglasgow](https://twitter.com/pttpglasgow)



PEN Scotland is a network of activists and educators who are interested in methods of popular education. We run training events, workshops, events and weekends on topics ranging from gender, community wealth building, debt advice and much more. We are always looking for more people to get involved in our work.



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