

Interest (Scotland) Bill

Consultation Response Paper

This response paper should be read in conjunction with the Scottish Government's consultation document and draft Bill on interest on debt and damages.

It is not necessary to answer all of the questions and you can focus on those in which you have a particular interest.

Please tick the response that most closely matches your opinion. Some questions invite you to expand on your answer and space is provided to do so. If you wish to do so you can also use the space at the end of this document to make additional comments.

Your Details

Name: WDD Lamont

Job Title: Head of Exchequer
(if applicable)

Address: The Highland Council, Glenurquhart Road, Inverness

Postcode: IV3 5NX

Your Organisation's Details

Title of Organisation: The Highland Council (Local Authority)
(if applicable)

We will make all responses available to the public in the Scottish Government library unless confidentiality has been requested. Responses from those who reply in confidence will only be included within numerical totals and names and text will not appear in the list of respondents or in any published analysis.

Confidentiality:

Yes	<input type="checkbox"/>
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Deadline for Responses: Friday 4 April 2008

Completion and Submission of Responses

It would be helpful to have your response by e-mail. However to help those who want to comment but do not have e-mail facilities we will be happy to accept written submissions too. Your two options for completing and submitting your response are:

Email submissions: Helen.grosset@scotland.gsi.gov.uk

Written Submissions: Family Law and Administrative Justice
Civil Justice, Law Reform and International Directorate
2 West, St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Telephone 0131 244 4837
Fax 0131 244 8325

Acknowledgements

All responses will be acknowledged either in writing or electronically.

Additional Copies of the Consultation Document and Response Paper

Further copies of the consultation document and the response document are available from the above address or can be downloaded from the Scottish Executive's web site at www.scotland.gov.uk/Publications/2008/01/interestondebt

For further information, or if you would like the consultation document or this paper in another format or language, please contact the above address. We will try to meet your needs.

Questions

Ref	Question	Yes	No	Don't know	Comments
Q1	Do you agree that utility debts should be exempt from the statutory interest regime? Please provide reasons for your answer.	X			Many personal customers already struggling. Would only serve to increase their indebtedness, administration and utility write-offs.
Q2	Do you agree that rent arrears due to public sector landlords should be exempt from the statutory interest regime? Please provide reasons for your answer.	X			Administrative burden if interest charged. Much would be written off at the end of the day.
Q3	Are there other categories of debt which should be excluded from the statutory interest regime? Please provide reasons for your answer.	X			Personal services such as home care, wardens. Reasoning similar to 1 and 2 above.
Q4a	Do you think the draft Bill will have an effect on the provision of insurance for individuals? If yes, what do you think that effect would be?		X		
Q4b	Do you think the draft Bill will have an effect on the provision of insurance for businesses? If yes, what do you think that effect would be?		X		
Q4c	Do you think the draft Bill will have an effect on the insurance industry? If yes, what do you think that effect would be?		X		
Q5a	Do you think that statutory interest should run on late payments under contracts of employment?	X			But only where the employer or his agent is responsible for the late payment.

Ref	Question	Yes	No	Don't know	Comments
Q5b	If so, do you think that the statutory interest should run from the date on which payments are due?		X		Administratively cumbersome.
Q6	Do you think that statutory interest should begin to run 30 days after the end of the period in respect of which the service under the contract is remunerated?	X			Reasonable approach.
Q7	If you think that statutory interest should run on late payments under contracts of employment, do you think there are any particular circumstances when interest should not run on late payments? If so, then what would these be?	X			Where this element is specifically dealt with as part of a formal negotiation arrangement.
Q8a	Should the rate of statutory interest be simple interest? Please provide reasons for your answer.	X			The principle to apply should be one of compensation, not punishment.
Q8b	Should the rate of statutory interest be compound interest? Please provide reasons for your answer.		X		See 8a
Q9a	Should the draft Bill contain provisions for complete judicial discretion in awarding interest? Please provide reasons for your answer.		X		It should be possible to resolve most claims outwith the Courts.
Q9b	Should the draft Bill contain provisions for limited judicial discretion in awarding interest? Please provide reasons for your answer.	X			How the creditor or agent behaves must be a material factor.
Q10a	Should the draft Bill allow for any retrospective effects?		X		
Q10b	If so, what should have retrospective effect and why?				

Ref	Question	Yes	No	Don't know	Comments
Q11	Should there be a difference in transitional arrangements for contractual debts, non-contractual debts or damages? If so, please give reasons.		X		
Q12	Do you think the draft Bill will have an effect on individuals? Please provide reasons for your answer.		X		If debts such as Utility bills are exempt
Q13	Do you think the draft Bill will have an effect on businesses? Please provide reasons for your answer.	X			An improved understanding by both debtors and creditors of the consequences of late payment (in circumstances not otherwise agreed in advance between the parties).
Q14	Do you think the draft Bill will have an effect on backdated pay? Please provide reasons for your answer.	X			If backdated pay situations are caught by the legislation, employers will have increased incentive to seek early resolutions.
Q15	Do you think the draft Bill should exempt backdated pay from the statutory interest regime? Please provide reasons for your answer.	X			It is unlikely that charging statutory interest in such circumstances would be warranted.
Q16	Do you think the draft Bill will have implications for future pay negotiations? Please provide reasons for your answer.	X			It has the potential to increase wage inflation as employers go for quick settlements in order to avoid hefty interest.
Q17	Do you think the draft Bill will alter behaviour and negotiating positions? Please provide reasons for your answer.	X			It has the potential to increase the bargaining power of those representing employees.
Q18	Do you think the draft Bill will have an impact on equal pay claims?	X			A tendency to weaken somewhat the position of employers, where equal pay claims interest not already provided for.
Q19	If yes, what would be the likely financial impact on				Difficult to determine, but increased cost likely.

	your organisation or the organisations you represent?				
Ref	Question	Yes	No	Don't know	Comments
Q20	Do you think the draft Bill should exempt equal pay claims from the statutory interest regime? Please provide reasons for your answer.	X			Arguments in favour not sufficiently convincing.

Please use this section if you wish to make additional comments

Some concern at administrative burden on public sector.
Suggest that a “de minimis” rule be applied where interest amounts small.