

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: Bruce West

Job Title: Head of Strategic Finance.
(if applicable)

Address:
.....
.....

Postcode:

Your Organisation's Details

Title of Organisation: Argyll & Bute Council
(if applicable)

Type of Organisation: Local Authority
(individual, business, advice organisation, professional body, legal body, statutory body)

Address: Kilmory
Lochgilphead
Argyll

Postcode: PA31 8RT

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	No
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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.	✓			Applying interest will only make it more difficult for those with financial problems to meet the cost of essential services.
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.		✓		Public and private sector rent arrears should be treated consistently. All tenants are entitled to housing benefit depending upon circumstances.
Q3	Are there other categories of debt which should be excluded from the statutory interest regime? Please provide reasons for your answer.	✓			If taxes are except then charges billed with them – water and sewage – should also be except.
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?			✓	
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?			✓	
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?			✓	
Q5a	Do you think that statutory interest should run on late payments under contracts of employment?		✓		

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?				
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?		✓		31 days is preferred to allow for end of month payments.
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?				
Q8a	Should the rate of statutory interest be simple interest? Please provide reasons for your answer.	✓			This is a simple and straightforward approach.
Q8b	Should the rate of statutory interest be compound interest? Please provide reasons for your answer.				
Q9a	Should the draft Bill contain provisions for complete judicial discretion in awarding interest? Please provide reasons for your answer.			✓	
Q9b	Should the draft Bill contain provisions for limited judicial discretion in awarding interest? Please provide reasons for your answer.			✓	
Q10a	Should the draft Bill allow for any retrospective effects?		✓		
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.		✓		
Q12	Do you think the draft Bill will have an effect on individuals? Please provide reasons for your answer.			✓	
Q13	Do you think the draft Bill will have an effect on businesses? Please provide reasons for your answer.			✓	
Q14	Do you think the draft Bill will have an effect on backdated pay? Please provide reasons for your answer.	✓			The Bill will have an impact on backdated pay. Pay awards are normally backdated because negotiations are not normally concluded before the beginning of the financial year, except where the pay deal involves more than one financial year. If interest was also charged this will add cost to any settlement. This issue is further complicated by implementation of single status in Local Authorities and the corresponding impact of equal pay settlements and this is discussed further in questions 18. 19 and 20.
Q15	Do you think the draft Bill should exempt backdated pay from the statutory interest regime? Please provide reasons for your answer.	✓			Backdated pay should be exempt from the statutory interest regime, because of the costs outlined above and in relation to the equal pay issues discussed below.
Q16	Do you think the draft Bill will have implications for future pay negotiations? Please provide reasons for your answer.	✓			The introduction of interest charges will complicate future pay negotiations and make them more complex with the potential to introduce tensions

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					<p>which currently do not exist. The outcome of wage negotiations are effective from the beginning of April in each financial year. If an entitlement to interest payments is introduced Trade Unions will expect interest to be paid if wage negotiations are not concluded before that date. However, if interest charges are introduced on any arrears of pay then this would reduce the level of resources available to employers to reach an agreement by an amount equivalent to the value of any interest payments which employers would require to make. This is a pressure which does not currently exist and could prolong any wage negotiations and provoke potential disputes. In addition if the resources available to employers are fixed the result may be a lower settlement offer due to the need to include the cost of any interest payments on arrears of pay within the overall financial envelope for the settlement.</p>
Q17	<p>Do you think the draft Bill will alter behaviour and negotiating positions? Please provide reasons for your answer.</p>	✓			<p>The draft Bill may alter behaviour in negotiating positions because employers may be required to fund the cost of any interest payments if negotiations are not concluded before the effective date of the wage award and this requires to be factored in to wage negotiations. In terms of the conduct of negotiations, employee representatives may not change their position but take the view that any issue around interest is a problem for employers and not for them. However, the</p>

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					introduction of this issue will reduce the flexibility of employers to enhance any proposals as part of the bargaining process because any concessions which are made by employers would need to take into account any interest which may need to be paid and as a result may force employers to offer less during initial negotiations. This could create a situation where employers are accused of offering settlements which they know employee representatives will not be able to accept and which would possibly be below the rate of inflation. This would distort the normal negotiating process whereby employees submit a pay bid, employers consider the submission and respond with a counter offer which results in a compromise position generally somewhere between these two points. If the issue of interest payments were introduced and an agreement was not concluded prior to the beginning of the financial year then the offer from employers could not be made at the same level because the cost of interest payments would have to be factored in to the equation.
Q18	Do you think the draft Bill will have an impact on equal pay claims?			✓	
Q19	If yes, what would be the likely financial impact on your organisation or the organisations you represent?				
Q20	Do you think the draft Bill should exempt equal pay claims from the statutory interest regime?	✓			I believe the draft Bill should exempt equal pay claims from the statutory interest regime. The cost of interest payments

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	Please provide reasons for your answer.				on any backdated equal pay settlement could be substantial for Local Authorities. If Local Authorities are required to fund this extra cost this will impact on the Council's main sources of revenue which are support from the Scottish Government or the Local Council/Income Tax payer.

Please use this section if you wish to make additional comments