

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: David Robertson

Job Title: Head of Accounting
(if applicable)

Address: Glenurquhart Road
Inverness

Postcode: IV3 5NX

Your Organisation's Details

Title of Organisation: Highland Council
(if applicable)

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

Address: Glenurquhart Road
Inverness

Postcode: IV3 5NX

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	
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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.	✓			The application of interest to a utility debt is unlikely to induce payment of the debt as a lack of resources is the main reason for non payment in the first place.
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.	✓			The application of interest to public sector rent arrears is unlikely to induce payment of the arrears as a lack of resources is the main reason for non payment in the first place.
Q3	Are there other categories of debt which should be excluded from the statutory interest regime? Please provide reasons for your answer.	✓ Purchase of all types of Energy			The imposition of a penalty on energy purchase will discourage those most in need from appropriate utilisation.
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?		✓		
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?	✓			Statutory interest should only be applied to payments that have been wrongfully withheld. Interest should not run on errors or mistakes because the reason for them is not always clear. Where a payment is made late the financial consequences can often be greater than would be compensated by applying interest e.g. bank charges
Q8a	Should the rate of statutory interest be simple interest? Please provide reasons for your answer.	✓			As below
Q8b	Should the rate of statutory interest be compound interest? Please provide reasons for your answer.		✓		Should remove complicated provisions and a further area of dispute
Q9a	Should the draft Bill contain provisions for complete judicial discretion in awarding interest? Please provide reasons for your answer.	✓			To prevent instances of injustice
Q9b	Should the draft Bill contain provisions for limited judicial discretion in awarding interest? Please provide reasons for your answer.		✓		As above
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.	✓			Yes but very limited for the reasons outlined in the consultation paper
Q13	Do you think the draft Bill will have an effect on businesses? Please provide reasons for your answer.	✓			Yes but very limited for the reasons outlined in the consultation paper
Q14	Do you think the draft Bill will have an effect on backdated pay? Please provide reasons for your answer.		✓		Before entering negotiations separate agreement will be reached on the application of interest
Q15	Do you think the draft Bill should exempt backdated pay from the statutory interest regime? Please provide reasons for your answer.	✓			It may add further area of potential disagreement between negotiating partners. It may also affect the desire of one partner to accept settlement
Q16	Do you think the draft Bill will have implications for future pay negotiations? Please provide reasons for your answer.		✓		See Q14
Q17	Do you think the draft Bill will alter behaviour and negotiating positions? Please provide reasons for your answer.	✓			See Q15
Q18	Do you think the draft Bill will have an impact on	✓			On future claims

	equal pay claims?				
Q19	If yes, what would be the likely financial impact on your organisation or the organisations you represent?				None if claims have already been dealt with before the introduction of this Bill
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.	✓			Equal Pay claims have been will span the introduction of this legislation and thus create inconsistent treatment for claimants