

# **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: Morag Johnston

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(if applicable)

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GLASGOW

Postcode: G2 1DU

### **Your Organisation's Details**

Title of Organisation: GLASGOW CITY COUNCIL  
(if applicable)

Type of Organisation: LOCAL AUTHORITY  
(individual, business, advice organisation,  
professional body,  
legal body, statutory body)

Address: Glasgow City Council  
285 George Street  
GLASGOW

Postcode: G2 1DU

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](mailto: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  
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**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](http://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.	√			Many customers already find it difficult to pay their utility bills – this would increase their level of indebtedness.
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.	√			Similar comment re Q1.
Q3	Are there other categories of debt which should be excluded from the statutory interest regime? Please provide reasons for your answer.	√			Section 2(b) should read “the payment or repayment represents a fine, penalty or tax due to or by a public authority”.
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?			√	Not application to local authority.
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?			√	Not applicable to local authority.
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?			√	Not applicable to local authority.

Ref	Question	Yes	No	Don't know	Comments
Q5a	Do you think that statutory interest should run on late payments under contracts of employment?		√		This would create a significant administrative burden on employers. Where late payment/or lack of payment is an issue employees have recourse to the Employment Tribunal system and any award may include an element of interest.
Q5b	If so, do you think that the statutory interest should run from the date on which payments are due?				See 5a.
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?				See 5a.
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 <b>not</b> run on late payments? If so, then what would these be?				See 5a.
Q8a	Should the rate of statutory interest be simple interest? Please provide reasons for your answer.	√			Relatively straightforward to calculate and fair rate in order to provide realistic compensation, in commercial terms, of creditor for loss of use of money.
Q8b	Should the rate of statutory interest be compound interest? Please provide reasons for your answer.		√		Can be difficult to calculate. Also could be seen as punitive in measure.

Ref	Question	Yes	No	Don't know	Comments
Q9a	Should the draft Bill contain provisions for complete judicial discretion in awarding interest? Please provide reasons for your answer.	√			This will allow the judiciary to consider, on occasions, not only the conduct of the debtor but the whole circumstances of the case in order to provide an equitable decision.
Q9b	Should the draft Bill contain provisions for limited judicial discretion in awarding interest? Please provide reasons for your answer.		√		See comments on 9a.
Q10a	Should the draft Bill allow for any retrospective effects?		√		A precise date from which the new interest provisions are to take effect from is the simplest way of ensuring a smooth transition to the new regime.
Q10b	If so, what should have retrospective effect and why?				
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.			√	Not applicable to local authority.
Q13	Do you think the draft Bill will have an effect on businesses? Please provide reasons for your answer.			√	Not applicable to local authority.
Q14	Do you think the draft Bill will have an effect on backdated pay? Please provide reasons for your answer.	√			The Bill should not include backdated pay arising from late settlement of pay awards. The cost implications would be significant.

Ref	Question	Yes	No	Don't know	Comments
Q15	Do you think the draft Bill should exempt backdated pay from the statutory interest regime? Please provide reasons for your answer.	√			There are well established arrangements at a national level within local government to negotiate pay awards with a trend towards longer term deals eg. 3 years which eliminates late payment particularly in 2 <sup>nd</sup> and 3 <sup>rd</sup> year of deal.  There would also be increased administration in calculating interest payments.
Q16	Do you think the draft Bill will have implications for future pay negotiations? Please provide reasons for your answer.	√			There could be an impact on pay negotiations however as stated in the document this is not easy to predict.  Within local government as previously stated there is a well-established mechanism in place with the aim being to achieve settlement at the earliest possible date. This is however always dependent on the TU side accepting the pay award.
Q17	Do you think the draft Bill will alter behaviour and negotiating positions? Please provide reasons for your answer.	√			There can be lengthy delays if the TU/Employee side take industrial action for example. If interest were added automatically it may reduce the incentive to reach a speedy conclusion to negotiations.
Q18	Do you think the draft Bill will have an impact on equal pay claims?	√			The Bill could well have an impact on equal pay claims and would increase the potential costs of settlements short of the ET process.
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? Please provide reasons for your answer.	√			There is a well-established process for settlement of claims and indeed through the ET mechanism – where settlements can include an element of interest.