

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: Jackie Taylor

Job Title: Corporate Finance Manager
(if applicable)

Address: Floor 12
Council Offices
Almada Street, Hamilton

Postcode: ML3 0AB

Your Organisation's Details

Title of Organisation: South Lanarkshire Council
(if applicable)

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

Address: As above

Postcode: As above

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	Agree that powers should be held to allow some categories of debt to be excluded. However, no opinion of utility bills.
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		Agree that powers should be held to allow some categories of debt to be excluded. However, there should be some form of deterrent from late payment, and interest could be that deterrent. Where a tenant is in real financial difficulties councils offer money advice services, and interest due could be taken into consideration.
Q3	Are there other categories of debt which should be excluded from the statutory interest regime? Please provide reasons for your answer.		X		
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?				See Q4c
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?				See Q4c
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?				Any additional costs having to be borne from insurance policies would increase the costs of these policies. However, through inclusion of a clause on interest payments,

					any additional costs can be managed.
Q5a	Do you think that statutory interest should run on late payments under contracts of employment?		X		<p>There are genuine, unintentional reasons for late payment of wages such as prolonged wage negotiations. It is unfair for employers to be penalised for such late payments.</p> <p>If all other late payments were to be covered this could result in costly administration for small amounts of interest. Would suggest limitations on claimable amounts.</p> <p>Difficulties may arise in establishing exactly when a payment was due. For example where overtime has been worked, is this due immediately, or on the next pay date. Likewise for expenses, when do they become due, when incurred, when submitted or on the next pay date.</p>
Q5b	If so, do you think that the statutory interest should run from the date on which payments are due?		X		It would be reasonable to give employers a reasonable opportunity to resolve issues of late pay without having to incur additional administration costs of calculating and paying immaterial amounts of interest.
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			See Q5b
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?				See Q5a, with particular reference to prolonged wage negotiations.
Q8a	Should the rate of statutory interest be simple interest?	X			Simple interest is more easily understood and easier to

	Please provide reasons for your answer.				calculate.
Q8b	Should the rate of statutory interest be compound interest? Please provide reasons for your answer.		X		See above.
Q9a	Should the draft Bill contain provisions for complete judicial discretion in awarding interest? Please provide reasons for your answer.		X		Complete judicial discretion may result in parties reverting to court action to resolve disputes rather than settle under the Bill.
Q9b	Should the draft Bill contain provisions for limited judicial discretion in awarding interest? Please provide reasons for your answer.	X			To take account of the circumstances of each debt where the creditor has acted inappropriately.
Q10a	Should the draft Bill allow for any retrospective effects?				
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.				
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.	X			Unless exempt from the Bill then it will, of course have an effect on backdated pay.
Q15	Do you think the draft Bill should exempt backdated pay from the statutory	X			See Q5a and 16

	interest regime? Please provide reasons for your answer.				
Q16	Do you think the draft Bill will have implications for future pay negotiations? Please provide reasons for your answer.	X			<p>If interest was to be paid then it may be in the interests of employers to settle pay awards early to ensure there is no back dating.</p> <p>It may be in the interests of Trade Unions to prolong negotiations knowing that their members will also receive interest on any back dated pay.</p> <p>Alternatively if interest has to be paid on backdated pay then the additional costs that would be incurred would need to be considered when assessing the affordability of pay awards.</p>
Q17	Do you think the draft Bill will alter behaviour and negotiating positions? Please provide reasons for your answer.	X			See Q16
Q18	Do you think the draft Bill will have an impact on equal pay claims?	X			Although any interest payable could be built into agreements.
Q19	If yes, what would be the likely financial impact on your organisation or the organisations you represent?			X	Unable to quantify.
Q20	Do you think the draft Bill should exempt equal pay claims from the statutory interest regime? Please provide reasons for your answer.			X	<p>The reasons for exempting backdated pay from the bill are perhaps more obvious as these often arise due to prolonged negotiated and so are outwith the sole control of the employers.</p> <p>Equal pay claims are made as a result of discrimination on the employers' part. There may therefore be a case for payment of interest, however it is probably preferable that this is dealt with in the relevant agreements rather than</p>

					legislation.
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As a local authority much of the debts owed to us are excluded from this Bill. We have therefore commented on areas that do affect us. This will primarily be interest due on employment contracts.

An obligation to pay employees interest for every late payment is likely to cause additional administrative costs to local authorities. Significant changes to payroll systems will be required at further expense and development time would be required to ensure they are fully compatible prior to the commencement of the Bill. Consideration should be given to limiting interest on late payment under contracts of employment to basic pay only and for interest to become payable 30 days after the pay was due. This would allow employers to avoid paying immaterial amounts of interest due.

It is unfair in a prolonged pay award situation that employers are penalised through discussions with Trade Unions. This would weaken the position of employers in future wage negotiations. It is strongly recommended that back dated pay, particularly arising from negotiated pay awards is exempt from the Bill.