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Economy and Fair Work Committee

Stage 1 Report on the Bankruptcy and Diligence (Scotland) Bill



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Economy and Fair Work Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy with the exception of matters relating to energy; and on matters relating to just transition within the responsibility of the Cabinet Secretary for Net Zero and Just Transition.



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Membership changes

1. There have been several changes to the membership of the Committee since the Stage 1 scrutiny of the Bill commenced in May 2023—

On 29 June 2023, Murdo Fraser replaced Jamie Halcro Johnston.

On 29 June 2023, Ash Regan replaced Michelle Thomson.

On 29 June 2023, Kevin Stewart replaced Fiona Hyslop.

On 29 June 2023, Brian Whittle replaced Graeme Simpson.

On 30 October 2023, Ash Regan resigned from the Committee.

On 8 November 2023, Evelyn Tweed joined the Committee.

Introduction

Purpose of the Bill

2. The Bankruptcy and Diligence (Scotland) Bill ("the Bill") was introduced on 27 April 2023.
3. The Scottish Government states that the objectives of the Bill are to—
 - ” Bring forward stakeholder-led recommendations to introduce improvements to current insolvency solution. As well as making technical changes to bankruptcy legislation, its aim is to help and improve the lives of people who are struggling with problem debt and serious mental health issues. ¹
4. The Policy Memorandum accompanying the Bill states that it does three things—
 1. Provide an enabling power to establish a mental health moratorium on debt recovery action;
 2. Make minor and technical reforms to the Bankruptcy (Scotland) Act 2016; and
 3. Make technical modifications to the law of diligence (Scotland's formal debt recovery mechanisms) ¹.
5. The Scottish Government had committed to undertake a policy review of Scotland's statutory debt solutions, specifically moratorium protection, bankruptcy, Protected Trust Deeds (PTDs) and the Debt Arrangement Scheme (DAS). This was in response to recommendations by the Session 5 Economy, Energy and Fair Work Committee following its scrutiny of the [Debt Arrangement Scheme \(Scotland\) Regulations 2019](#). That Committee also conducted an [inquiry into Protected Trust Deeds](#) and, in its report, re-emphasised the need for a review of debt solutions.
6. The Scottish Government took a three stage approach to its policy review. The first stage looked at immediate priorities for changes which could be taken forward quickly in the context of the COVID-19 pandemic. The second stage involved using stakeholder working groups to consider medium-term changes to the current framework for statutory debt solutions. The third stage is underway and involves longer term consideration of existing solutions and explores the extent to which they meet the needs of a modern economy. ²
7. The Scottish Government has separately undertaken a review of formal debt enforcement laws. This area of law is called "diligence".
8. The proposals in this Bill have been developed by stakeholder working groups, facilitated by the Accountant in Bankruptcy; through a [review of Scottish Statutory debt solutions](#); and a [diligence working group](#).

Consideration by the Economy and Fair Work Committee

9. The Parliamentary Bureau referred the Bankruptcy and Diligence (Scotland) Bill to the Economy and Fair Work Committee for Stage 1 scrutiny on 17 May 2023. The Committee agreed its approach on the same day. An initial stage 1 deadline of Friday 24 November 2023 was agreed by the Parliament however the Committee sought an extension and a revised deadline of Friday 23 February 2024 was agreed by the Parliament on 8 November 2023.
10. The Committee issued a call for views on 25 May which closed on 21 July 2023. [17 written responses were received](#) and published in full.
11. The Committee took oral evidence from the following stakeholders—
 - Advice Talks Ltd;
 - Citizens Advice Scotland;
 - City of Edinburgh Council;
 - Dalkeith and District Citizen's Advice Bureau
 - Insolvency Practitioners Association;
 - Institute of Chartered Accountants of Scotland;
 - Money and Mental Health Policy Institute;
 - R3;
 - Society of Messengers-at-Arms and Sheriff Officers (SMASO);
 - South Lanarkshire Council; and
 - The Law Society of Scotland.
12. The Committee also took evidence from Tom Arthur, Minister for Community Wealth and Public Finance; Richard Dennis, Accountant in Bankruptcy and Agency Chief Executive; and James Clelland, Solicitor, Scottish Government.
13. The Committee visited [One Parent Families Scotland](#) in Glasgow for an informal discussion and held an online session with [The Poverty Alliance](#), to hear first-hand the issues faced by those with lived experience of debt and mental health issues.
14. The Committee is grateful to everyone who provided evidence or shared their experiences and insights, to inform its consideration of the Bill.
15. The Scottish Government published a [consultation on detailed proposals for a mental health moratorium](#) on 13 November 2023³, close to the end of the Committee's Stage 1 scrutiny of the Bill. The Committee would have found it helpful if this level of detail about the envisaged practical operation of the moratorium had


been shared with the Committee earlier in the process.

Consideration by other committees

Consideration by the Finance and Public Administration Committee

16. Under rule 9.3.2 of the Parliament's Standing Orders, a [Financial Memorandum](#) was published, setting out best estimates of the costs and changes to revenue associated with the Bill.
17. The Finance and Public Administration Committee invited written evidence on the Financial Memorandum and received [2 responses](#). These responses were shared with the Committee and the Finance and Public Administration Committee took no further action.

Consideration by the Delegated Powers and Law Reform Committee

18. The Bill confers six powers to make subordinate legislation on the Scottish Ministers. A [Delegated Powers Memorandum](#) (DPM) was published setting out the reasons for using delegated powers and the procedure chosen.
19. The Delegated Powers and Law Reform Committee (DPLRC) considered the DPM on 6 June 2023 and was content with five of the six powers. However, it drew the lead committee's attention to section 1 giving the Scottish Government power to create a moratorium.
20. The DPLRC stated that it—
 -  accepts the reason for the need for this delegated power in principle and that it will be subject to the affirmative procedure. However, given
 - (i) the potential impact on the rights of creditors,
 - (ii) the potential for this policy to make it harder for people with a history of mental health issues to access credit,
 - (iii) the need to strike a fair balance between the rights of creditors and those of debtors, and further given that
 - (iv) moratoria are meant to be temporary and that failure to specify the maximum duration of the moratorium on the face of the Bill represents a departure from previous statutory moratoria, the Committee considers that the details of the regulations merit careful parliamentary scrutiny.
21. The DPLRC published its report on 22 June 2023. Its conclusions and recommendations are reflected upon in the main body of this report.

Correspondence from the Social Justice and Social Security Committee

22. The Social Justice and Social Security Committee (SJSSC) undertook an inquiry to understand the specific challenges faced by people with debt issues and low income. The SJSSC report [Robbing Peter to Pay Paul: Low income and the debt trap](#) had several recommendations for the Scottish Government, some of which have already been taken forward through regulations.
23. The SJSSC [wrote to the Economy and Fair Work Committee](#) to draw attention to recommendations in its report that are relevant to the subject matter covered by the Bill. These are referred to later in this report.

Moratorium on debt recovery action: debtors who have a mental illness

General Context

24. The COVID-19 pandemic and the cost of living crisis exacerbated money problems for many people. It is widely accepted that money concerns and mental health issues go hand in hand, meaning the stress of dealing with debt can cause ill health as well as hardship.
25. The Policy Memorandum notes that poor mental health can impact an individual's ability to manage their money to make sound financial judgements and decisions, and to maintain employment and a regular income that can service debt¹. This view was echoed by Becca Stacey from the Money and Mental Health Policy Institute, who told the Committee—
- ” We know that people with mental health problems are three and a half times more likely to be in debt, and half of the people who are in problem debt are experiencing a mental health problem.⁴
26. The introduction of a mental health moratorium was recommended by the SJSSC in its [Robbing Peter to pay Paul: Low income and the debt trap](#) report. The Committee was of the view that it is unfair for people experiencing a mental health crisis to be pressurised by creditors and continue to be charged interest on their debt.⁵
27. The current legal framework for statutory debt solutions allows people in debt (including those with mental health issues) to apply for a 6 month moratorium against diligence, giving someone with debt problems time to consider the best solution to their financial situation.
28. During this time, debtors are expected to continue making payments towards any debts due whilst the moratorium is ongoing. The moratorium prevents creditors from taking particular forms of recovery actions for a set period of time. The current moratorium can only be applied for once in each 12 month period.¹
29. Section one of the Bill would give Scottish Ministers power to make regulations to introduce a mental health moratorium. At the time of its introduction, however, very little had been included about how the moratorium would work. The Policy Memorandum states that—
- ” Further work will be taken forward within government and with stake holders to develop the details of the scheme which will cover specific areas such as the criteria for entry to, and exit from, a moratorium; the specific protections afforded by a moratorium, and the duration of those protections.¹
30. Whilst leaving the detail of the mental health moratorium to regulations will allow the Scottish Government the flexibility to adapt legislation to respond to changes, it also means the specifics of the moratorium are not currently set out.

31. In September 2023, the Minister for Community Wealth and Public Finance [wrote to the Committee](#) setting out the Scottish Government's future plans and particularly the proposals for secondary legislation. The Committee welcomes this but is concerned that a significant amount of detail of what the Bill seeks to do is being left to regulations.
32. Some respondents to the Committee's call for views on the Bill, whilst agreeing in principle to the idea of a mental health moratorium, commented on the lack of information and clarity accompanying the proposal for a mental health moratorium. This had made it difficult for them to comment in detail.
33. For example, South Lanarkshire Council said—
- ” We are concerned that a high-level outline of how the mental health moratorium will operate has not been included in the draft Bill... It, therefore, is not clear, at this point, who will be able to use a Mental Health Moratorium, how an application will be made and what effect it will have or how long it will last. ⁶
34. Witnesses emphasised the importance of the regulations in setting out how the moratorium will operate. Katie McLachlan from the Association of Business Recovery Professionals (R3) stated—
- ” Broadly, R3 is very much in support of the Bill and the contents thereof, particularly the mental health moratorium... However, the regulations that underpin that and the mechanics of how it all works will be important with regard to the balancing of the debtor and creditor interest. The details of how the moratorium will actually work are very important to R3. ⁷
35. Further information on how the Scottish Government intends that the mental health moratorium will operate emerged after evidence-taking on the Bill was underway.
36. The Accountant in Bankruptcy's Mental Health Moratorium Working Group [published their report in August 2023](#), just as the Committee started taking evidence on the Bill. More information detailing the Scottish Government's proposed direction was published in the [mental health moratorium consultation](#) on 13 November 2023. The Committee received no prior notification that this was to be published.
37. The Committee acknowledges that the purpose of the consultation is to support the design of the moratorium and the development of regulations to be introduced at a later date, subject to the Bill being passed. However, had the information in the consultation detailing how the moratorium might work been shared earlier, it would have allowed the Committee's discussions with stakeholders to be more informed, enhancing the scrutiny process.
38. During the evidence session on 29 November, the Minister for Community Wealth and Public Finance apologised for not having given advance notice of the consultation. He told the Committee that the Scottish Government aims to give it sight of the regulations before Stage 3. He explained—

” Officials have worked hard to publish it as soon as possible, which, I hope, will give the committee sufficient time to consider the consultation as part of its stage 1 deliberations... We will certainly endeavour to produce a draft of the regulations ahead of Stage 3, while recognising that regulations could only be formally laid should the bill be passed by Parliament. ⁸

39. The Committee agrees with the principle of a Mental Health Moratorium but is concerned at the lack of detail on how it will operate in practice. More information on the Scottish Government's policy direction was provided in the consultation issued in November 2023, but this came too late to be discussed with witnesses.
40. It is imperative that sufficient time is made available for detailed Parliamentary scrutiny of how the moratorium will work in practice. The Committee calls on the Scottish Government to provide it with early sight of the draft regulations before the commencement of Stage 3, and prior to these being formally laid.

Criteria for entering a mental health moratorium

41. Due to the absence of detail on the criteria under which a person could enter a mental health moratorium, the Committee heard a range of differing views on how wide access should be.
42. The Policy Memorandum states that the mental health moratorium will allow protection for "a specific group of debtors, being those struggling with problem debt and serious mental health issues." ¹
43. The Mental Health Moratorium Working Group agreed that the entry criteria should be linked to sections in the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#), meaning those who are subject to a Compulsory Treatment Order (CTO) would be eligible. Those receiving compulsory treatment under the [Criminal Procedure \(Scotland\) Act 1995](#) should also be covered. The group considered whether individuals who experience severe mental health crisis but receive in-patient care and treatment on a voluntary basis should be included, but decided this would be too difficult to manage. ⁹
44. The number of people who might benefit from the mental health moratorium will not be known until the details of the scheme are finalised, however, the Scottish Government's Financial Memorandum estimates there may be between 200-500 applications each year. ¹⁰
45. R3, Insolvency Practitioners Association (IPA) and Citizens Advice Scotland said that the entry criteria should be those receiving compulsory treatment. Sarah-Jayne Dunn from Citizens Advice Scotland recognised limiting eligibility to those in compulsory treatment as a good starting point, and emphasised that the criteria could be reviewed at a later date. ⁴
46. However One Parent Families Scotland and Poverty Alliance said the CTO criteria

would only help a very small number of people. They suggested widening the criteria to use the "Severely Mentally Impaired" category from Council Tax.¹¹

47. The Committee notes that the term "Severely Mentally Impaired" is a recognised term in the [Local Government Finance Act 1992](#) creating an exemption for those covered from paying council tax. The Committee suggests this term is out-dated and draws this to the attention of the Scottish Government.
48. South Lanarkshire Council argued that to be effective in protecting people with mental health issues, the mental health moratorium should be accessible to people who are receiving treatment in the community - not just in hospital or other institutions.⁶ This view was shared by an individual respondent who noted that debt issues could cause distress and exacerbate someone's mental health issues without them being in compulsory treatment, as receiving financial correspondence can be just as distressing to those who aren't getting the support they need.¹²
49. South Lanarkshire Council also said that the Compulsory Treatment Order criteria were restrictive and suggested using the Debt and Mental Health Evidence form (DMHEF) as the basis for assessment. This form is already in use by Money Advisers to request actions such as debt write-off. Medical and mental health professionals can use the form to indicate the impact of someone's mental health condition on their ability to deal with their debt issues.
50. The entry criteria for the [Debt Respite Scheme](#) (Breathing Space) in England and Wales is wider than the proposals put forward by the Scottish Government. Breathing Space is open to anyone who is receiving mental health crisis treatment. Entry to this scheme must be certified by an approved Mental Health Practitioner.
51. NatWest Group PLC cautioned against widening the eligibility criteria stating that extending the scope of the mental health moratorium to all customers with a mental health illness could create unintended consequences.¹³

52. The Committee notes the proposals in the Scottish Government's consultation that only those receiving compulsory treatment should be eligible for the mental health moratorium. However, the Committee believes that the Scottish Government's position does not reflect the severity of the issues faced by those with serious mental health issues and debt problems. The Committee therefore urges the Scottish Government to widen the entry criteria, allowing more people to access the much needed support provided by the mental health moratorium.
53. The Committee draws attention to three suggestions for alternative entry criteria. These were—
 1. Using the "Severely Mentally Impaired" criteria from Council Tax Legislation;
 2. Allowing Mental Health Professionals to certify a required level of impact from mental health problems using a form similar to the Debt and Mental Health Evidence Form currently in use in the money advice sector; and
 3. Using entry criteria similar to those set out under the Breathing Space Scheme in England and Wales - this covers people receiving "crisis

treatment", encompassing those in compulsory treatment as well as those with conditions of comparable severity who are receiving crisis, emergency or acute treatment without compulsion.

54. The Committee notes the lack of detail in the Bill and the Scottish Government's intention that the scheme will be fleshed out in regulations. The Committee calls on the Scottish Government to provide these in draft form, ahead of Stage 3, so that members have adequate time to consider the policy detail.
55. In addition, although it is recognised that the phrase "Severely Mentally Impaired" is currently used in Council Tax legislation, the Committee believes this is outdated and stigmatising and draws this to the attention of the Scottish Government.

Mental health moratorium eligibility sign-off

56. There were different views, amongst witnesses, on who should sign off a person's eligibility for the mental health moratorium however it was generally agreed that both Mental Health Practitioners and Money Advisers would have a role in supporting entry to the mental health moratorium.
57. The Scottish Government's mental health moratorium consultation proposes that eligibility for the mental health moratorium should be certified by a Mental Health Officer, Reporting Medical Officer, a Community Psychiatric Nurse or a similarly qualified professional.³

58. The Committee notes the Scottish Government's consultation proposal that the mental health aspect of eligibility for the mental health moratorium should be certified by a Mental Health Professional.

Length of the mental health moratorium

59. The Policy Memorandum notes that a mental health moratorium will "provide the debtor with breathing space from creditor action in order to focus on treatment for, or recovery from, serious mental illness".¹ In order to achieve this, the Scottish Government is proposing a two-stage mental health moratorium— an initial phase lasting for as long as compulsory treatment and a follow-on phase to deal with debt problems.
60. Various witnesses were supportive of a two stage process, including Natalia Mendel, Dalkeith and District Citizens Advice Bureau who explained—

” For the moratorium to work, particularly during the first period of time, people need to focus on their mental health. That is a very important part of the proposal. We must recognise that, when someone has a mental health crisis or when their mental health is so bad that they need to take time out and pause, that is not the time to think about their debts.¹⁴

61. The mental health moratorium consultation suggests that the follow-on period should, initially, last for six months.³ This would be similar to the standard moratorium which was increased to 6 months during the COVID-19 pandemic, on the understanding that this would be reconsidered after the cost of living crisis. The Minister for Community Wealth and Public Finance confirmed there are no immediate plans to change from the current provision of 6 months.⁸
62. The DPLRC report highlighted its concern that moratoria are meant to be temporary and that failure to specify the maximum duration of the moratorium on the face of the Bill represents a departure from previous statutory moratoria. The DPLRC considered that the details of the regulations merited careful parliamentary scrutiny and highlighted this to the lead Committee.¹⁵

63. The Committee notes the concern of the Delegated Powers and Law Reform Committee that moratoria are meant to be temporary and that failure to specify the maximum duration of the moratorium on the face of the Bill represent a departure from previous statutory moratoria.
64. The Committee supports the proposed two-stage approach to the moratorium period with an open-ended first phase, allowing an individual to focus on recovery from a serious mental health condition, rather than exacerbating the problem with continuous debt worries. Given the varying nature of mental health conditions, the Committee believes it is appropriate for this period to last as long as needed. The follow-on phase would focus on dealing with a person's debt problems.
65. The Committee notes proposals in the mental health moratorium consultation that the follow-on period should last for six months and recommends the follow-on period should last at least this long.
66. The Committee welcomes the Minister for Community Wealth and Public Finance's assurances that there are no immediate plans to reduce the standard moratorium from the current 6 month period.

Protections within the mental health moratorium

67. Some witnesses raised concerns that there was very little information on what protections an individual would have as part of the mental health moratorium. Alan McIntosh said—

” The problem... with regard to the moratorium, there is no meat on the bones. We do not know any of this yet. Will this be something that we want to use for our clients? We do not know at this point in time because there is nae meat on the bones. ¹⁴

68. At the time of taking evidence, witnesses were interested in the protections of stopping diligence, freezing interest, and stopping creditor contact. The Scottish Government is currently consulting on the protections that could appear in the mental health moratorium , but these details only became available after the Committee had finished taking evidence on the Bill.
69. One Parent Families Scotland and Poverty Alliance agreed with the above protections, particularly that of stopping creditor contact, explaining that receiving incessant texts from creditors and knowing that debts were constantly increasing due to interest and charges impacted negatively on their mental health. ¹¹
70. The consultation on the mental health moratorium proposes that it will stop diligence (formal, court-sanctioned debt enforcement action) but not other forms of debt enforcement, such as stopping creditor contact and freezing interest and charges for the duration of the moratorium. However, the intention is that it will not offer any additional protection against eviction or stop enforcement action against people who are jointly ("jointly and severally") liable for debts. The Scottish Government argues that there are sufficient existing protections for people in these areas.
71. Citizen's Advice Scotland have called for the Debt and Mental Health Evidence Form to be built into the mental health moratorium process. Sarah-Jayne Dunn suggested that the Form could act as a trigger alongside any other process that might be recommended—

” the form can do more than the standard moratorium; it can request things such as debt write-off, the freezing of debt interest and charges, and other tailored support.
72. The Committee heard how the [Debt Respite Scheme](#) (Breathing Space) in England and Wales gives protections, including pausing most enforcement action and contact from creditors and freezing most interest and charges on debts. Protection against eviction and protection for people who are jointly and severally liable for debts are also included.
73. Alan McIntosh, Advice Talks Ltd explained—

” The breathing space moratorium stops somebody raising a court action, freezes interest and charges, stops cars being repossessed, stops evictions and repossessions, stops pre-payment meters being forcibly installed—which is a reserved matter for the UK Parliament—and stops arrears for electricity and gas bills being deducted from a pre-payment meter. Our moratoriums do none of those things. There is a big issue there. What will the proposed moratorium do that will make it better or more enhanced than the current statutory moratoriums?
74. The Minister for Community Wealth and Public Finance stated he would be happy

to reflect further on these issues, particularly that of pre-payment meters, and will raise this directly with the UK Government as the legislation passes through Parliament.⁸

75. The Committee agrees with Citizens Advice Scotland that the Debt and Mental Health Evidence Form should be built into the mental health moratorium as a mechanism that may trigger other support that may be available to individuals in appropriate circumstances.
76. The Committee asks the Scottish Government to reconsider its position that moratorium protection should not extend to preventing eviction or to people who are jointly and severally liable for debts.
77. The Committee notes the Scottish Government's commitment to liaise with the UK Government on the issue of pre-payment meters, and requests regular updates on the Scottish Government's discussions with the UK Government in this area.

Additional reforms to support the mental health moratorium

Money advice sector capacity

78. In providing evidence to the Committee, some witnesses raised concerns about the lack of capacity in the free money advice sector, stating that funding to the sector has reduced in recent years while demand has increased. Money advisers may have an increased workload associated with the new mental health moratorium.
79. People with mental health issues often need additional support to initially engage with a money adviser. They then may need further, tailored support through the process, such as shorter and flexible appointment times and face to face meetings.
¹⁴ ⁴ The Committee was told that having access to free, local advice provision makes accessing debt advice easier for those who need it most.
80. The Highland Council noted in its submission to the Committee's call for views how important it is for people to be able to access free debt advice—

” It will be essential that there is a sufficient number of suitably trained debt advisers who can be accessed for free at point of need. However, the limited supply of suitable trained debt advisers across Scotland is already under extreme pressure, which is being exacerbated by the cost of living pressures... providing a sufficient supply of advisers will require investment by the Scottish Government.¹⁶
81. Citizens Advice Scotland believe that there should be more partnership working across both mental health and money advice services. This could be achieved, for example, by embedding money advice services in mental health settings and working with local community teams. They also stressed the importance of building

relationships with clients and tailoring the support services to the needs of the individual.⁴

82. In the recently published [consultation on the mental health moratorium](#)³, the Scottish Government suggests that the Accountant in Bankruptcy will take on much of the administration of setting up a mental health moratorium.
83. The consultation also puts forward two proposals for the delivery of money advice to support the mental health moratorium. The first proposal is that money advice relating to the mental health moratorium is delivered by one organisation, contracted by the Accountant in Bankruptcy. The second is that mental health professionals will be able to refer applications to a money adviser on a list maintained by the Accountant in Bankruptcy.
84. The Scottish Government confirmed that the needs of individuals accessing support will be taken into account, including the option of face-to-face meetings. Richard Dennis, Accountant in Bankruptcy, told the Committee—

” I completely agree that we need to find a system in which debt advice can be given through the channel and at a time and pace that suits the individual.⁸

85. The Committee notes that the proposed moratorium may put additional pressures on the money advice sector. The Committee recognises the constraints on those already working in the sector. It urges the Scottish Government to consider the impact the proposals in the Bill may have on waiting times for those seeking advice and work with the sector to mitigate these.
86. The Committee reiterates its views that those participating in a mental health moratorium are likely to benefit from local service provision with an option for face to face meetings if this is the client's preference and welcomes the Scottish Government's commitment to advice via the channel of their choice for participants.

Awareness-raising and Resources

87. There were calls for additional resources and education for money advice sector staff and mental health professionals to support collaborative working and improve knowledge and awareness of the mental health moratorium, when introduced.
88. The City Of Edinburgh Council stressed the need to ensure that people have access to the information about a mental health moratorium and that the appropriate processes and resources are in place to support those who need it in a collaborative joined-up way.¹⁷ This view was echoed by the Institute of Chartered Accountants of Scotland (ICAS) who called for a much more collaborative approach across the debt advice sector, from both the commercial insolvency practitioners and charities to give the right advice at the right time.⁷
89. The Committee heard that additional resources would be needed to support the training and education of both money advice sector staff and mental health

professionals. Additionally, resources need to be produced and delivered to improve the knowledge and understanding of both creditors and debtors.

90. Becca Stacey from the Money and Mental Health Policy Institute told the Committee that the Breathing Space scheme in England and Wales was heavily underutilised. Only 2,075 applications were made in England and Wales from May 2021 to March 2023. The lack of awareness of the scheme amongst healthcare professionals was seen as a significant factor. She also noted that the Breathing Space scheme is not routinely offered to those who are receiving mental health crisis care and urged the Scottish Government to learn the lessons from the Breathing Space scheme.⁴

91. The Committee believes that clear guidance and training should be provided for mental health professionals and money advisers to allow them to effectively support people to access the mental health moratorium to those in need. Guidance should also be available to creditors to make their role and responsibilities clear.
92. The Committee agrees that lessons could be learned from the Breathing Space scheme in England and Wales and that this could be adapted for use in Scotland. However, it notes concerns that a lack of awareness among mental health professionals and potential users may be hampering uptake.
93. The Committee recommends that the offer of a mental health moratorium should be automatically signposted to those who enter compulsory treatment, to raise awareness of the scheme, and support those experiencing debt. Processes to support this should be designed in conjunction with mental health professionals and money advisers.

Capacity of the debtor

94. The Committee understands that many of those entering a mental health moratorium will have arrangements in place to deal with a lack of legal capacity, such as someone with power of attorney. However, the Committee is concerned that some people will not be able to access a mental health moratorium because no arrangements of this nature are in place.⁹
95. The Mental Health Moratorium Working Group recommends that an individual who is already subject to a CTO should not be made to endure further compulsion over their financial affairs. The group recommends that the mental health moratorium should only be offered to those with the capacity to consent, either themselves or through a legally-recognised representative. The Scottish Government stated that it is "minded to accept this recommendation" but is seeking stakeholder views on this topic in the mental health moratorium consultation.³
96. Academics from the University of Aberdeen noted in their written submission that further consideration of debtor capacity is needed for the mental health moratorium to be put into effect—

” If the expectation is that a debt adviser is to submit an application for a mental health moratorium on behalf of a debtor... the debtor may not have sufficient mental capacity to agree to the application and there may not be a formal power of attorney, it may be advisable to include a clear statutory statement that the debt adviser can still make the application in spite of this fact. ¹⁸

97. During the evidence session in November 2023, the Accountant in Bankruptcy suggested that it might be possible to have a process by which someone could become designated as having the ability to apply for a mental health moratorium on behalf of the individual, and stated he would reflect on this. ⁸

98. The Committee is concerned that people in compulsory treatment who do not have the capacity to consent to a mental health moratorium or have a legally-recognised representative to do so for them, will not be able to access the scheme. The Committee urges the Scottish Government to develop and implement a process to allow everyone who is eligible for the mental health moratorium to access it.

Mental Health Moratorium Public Register

99. The [mental health moratorium consultation](#) highlighted that the Scottish Government was considering the development of a public register of people who accessed a mental health moratorium “if this can be done in a way which does not unduly stigmatise” them ³. The intention is to protect the interests of future creditors who may lend to someone in this situation.

100. The Committee explored the risks around stigmatising people who are in need of the mental health moratorium and expressed concern that being exposed on a public register may stop individuals accessing the support they need. The Committee asked if the Breathing Space scheme in England and Wales has a public register of those accessing the scheme.

101. In supplementary evidence, the Accountant in Bankruptcy explained that the Breathing Space scheme does not have a public register. There is a register, but it can only be viewed by the individual, any debt advice provider, the individual's existing creditors (who have received notification of either a Breathing Space or Mental Health Crisis Moratorium), and the Secretary of State. ¹⁹

102. The Committee seeks clarity from the Scottish Government on the proposal for a public register for the mental health moratorium. The Committee has difficulty in understanding how creating a public record of someone's significant mental health issues could be done without causing stigma. It therefore requests clarification from the Scottish Government on how long someone's information will be stored on the register; who will be able to view the data; and how the requirements of data protection legislation in relation to the processing of special category data would be met.

Modification of the Bankruptcy (Scotland) Act 2016

Sections 2 - 5

103. Sections 2-5 of the Bill on the clarification of bankruptcy recall legislation, award of bankruptcy, gratuitous alienation and appeal time periods are minor or technical fixes that have been identified by the Scottish Government as necessary for the 2016 Act.¹
104. The Minister for Community Wealth and Public Finance noted that the Bill is an opportunity to make relatively minor and technical improvements to the wider law around bankruptcy and diligence.²⁰ The view that the changes were technical in nature was echoed by ICAS in their written response to the Committee's call for views.²¹
105. Section 2 will clarify and remove ambiguity to the processes for applying for a recall of an award of sequestration. Section 3 makes amendments to the [Bankruptcy \(Scotland\) Act 2016](#) ("The 2016 Act") to ensure there is a cross reference to Minimal Asset Process bankruptcy in subsection (2). Section 4 corrects a cross referencing error so that Section 98 (7) of the 2016 Act now refers to subsection (5) rather than subsection (6) of Section 98. Section 5 amends sections 69 and 134 of the 2016 Act by clarifying the time periods for appeals and remove any ambiguity with interpretation. The time periods being inserted will provide consistency with other sections of the 2016 Act.
106. The Committee welcomes the minor and technical changes to the Bankruptcy (Scotland) Act 2016 as the changes are intended to clarify existing requirements, remove potential ambiguity, and correct errors in the 2016 Act.

Additional changes to be considered

107. The Committee was made aware of a range of suggested further required reforms to bankruptcy legislation. These are discussed below.

Minimal Asset Process (MAP) Bankruptcy

108. Minimal Asset Process bankruptcy is a route into bankruptcy for individual debtors with low income and few assets. It is only possible to apply for a MAP bankruptcy once in 10 years.
109. The [Social Justice and Social Security Committee wrote to the Economy and Fair Work Committee](#) to highlight the issue of reducing the period that people must wait to reapply for a MAP. Money Advice Scotland and others argued for MAP to be brought in line with full administration bankruptcy which can be applied for every 5 years. The cost of administering a full administration bankruptcy is higher so facilitating more frequent access to MAP bankruptcy would be in the financial

interests of creditors and the public purse.²²

110. Alan McIntosh from Advice Talks Ltd questioned the benefit of making someone wait for 10 years before they can enter MAP bankruptcy. He argued that the quicker someone can deal with their situation, the quicker and likelier they will become economically active again.¹⁴

111. However, MAP bankruptcy does not involve the same level of scrutiny of a debtor's financial affairs as the full administration bankruptcy process. The City of Edinburgh Council indicated that it was not supportive of people effectively having debts written off more easily¹⁷. David Menzies of ICAS was concerned about the balance between the interests of debtors and creditors. He said of the current situation—

” It is important to recognise as well that that rule does not prevent people from accessing bankruptcy; it just means that they go into full bankruptcy—for want of a better word—instead of the minimal asset process bankruptcy. People can still access bankruptcy, but there is a safeguard in place, which is broadly appropriate.⁷

112. The Committee agrees with the recommendation by the Social Justice and Social Security Committee in its [Robbing Peter to pay Paul report](#), and calls on the Scottish Government to reconsider its position and reduce the period of time people must wait to reapply for MAP Bankruptcy and bring it into line with full administration bankruptcy.

Discharge of Trustees

113. A trustee in bankruptcy can only be discharged once the debtor has been discharged. Previously, debtor discharge was automatic, after a set timescale. The Bankruptcy and Debt Advice (Scotland) Act 2014 allowed discharge to be delayed where the debtor has been uncooperative or cannot be found. A trustee cannot receive their discharge until the debtor has received theirs.

114. ICAS would like to see trustees receive their discharge where all reasonable steps had been taken to deal with debtors who cannot be found or were uncooperative. David Menzies explained—

” We end up in a situation where the trustee is in place in perpetuity, which comes at a cost...there comes a point where that is just futile. Currently, no avenue exists for that Insolvency Practitioner (IP) to get that discharge... It would be sensible to include that point in the Bill at this stage in order to address that issue.⁷

115. There are ongoing administrative costs where a trustee is kept in post. These come out of the funds available to creditors. The Insolvency Practitioners Association (IPA) highlighted a lack of clarity between refusing discharge and bankruptcy restrictions orders (where a debtor acts dishonestly or unlawfully). IPA also noted the cost to the public purse where a trustee is in place in perpetuity.⁷

116. The Scottish Government has said it is not considering re-introducing automatic discharge for debtors. However, options such as moving the administration of the case to the Accountant in Bankruptcy could be considered.²³

117. The Committee agrees with stakeholders that trustees should be discharged in certain circumstances where all reasonable steps had been taken to contact debtors who cannot be found or were uncooperative. It recommends that the Scottish Government outlines its plans to deal with this situation in its response to this report.

Statutory Interest

118. The Law Society of Scotland raised the issue of Statutory Interest noting a recent court case which had made the law in this area less clear. The court held that, in the case in question, statutory interest did not need to be paid before the award of bankruptcy could be recalled. However, it left open the possibility that, if there was a long time between the bankruptcy and the petition to recall, paying interest may be appropriate.
119. The Law Society of Scotland is calling for the law in this area to be clarified and suggested, where there was more than six months between bankruptcy and an application for recall, statutory interest should be payable.
120. In his [letter dated 4 September 2023](#), the Minister for Community Wealth and Public Finance indicated that the Scottish Government proposes to bring forward secondary legislation to change the statutory rate of interest to the Bank of England base rate plus 2%. However, there has been no commitment to specifically tackle the issue of when statutory interest should be payable where there is a petition for recall.

121. The Committee welcomes the Scottish Government's proposals to bring forward secondary legislation but notes this is not expected to cover the issue of statutory interest when there is a petition for recall. The Committee requests that the Scottish Government considers the Law Society of Scotland's suggestion to clarify the law, to provide that within the first 6 months of a sequestration, debts can be paid in full without interest being charged but thereafter interest would have to be paid for a petition for recall to be successful.

Bankruptcy Petition

122. The Committee heard evidence from The Society of Messengers-at-Arms and Sheriff Officers (SMASO) who suggested a practical change to the requirements of service on the debtor of a bankruptcy petition. Bankruptcy petitions must be served by officers of the court in person rather than by post.
123. At present, a bankruptcy petition must be served no more than 14 days before the

hearing and no fewer than 6 days before the hearing (an eight-day window). This can cause difficulties, especially when covering rural and island areas of Scotland. SMASO recommend that this period be increased to 21 days.


124. When questioned on extending the timescales for serving a bankruptcy petition, the Minister for Community Wealth and Public Finance stated that the Scottish Government will "have further engagement and discussion on that to see whether we can find a solution".⁸

125. The Committee calls on the Scottish Government to consider increasing the number of days in which a bankruptcy petition must be served.

Diligence reforms

126. Sections 6 to 10 of the Bill would make reforms to the current law on formal debt enforcement. These changes were recommended by the Diligence Working Group.

Arrestee's duty of disclosure

127. Arrestment is a form of diligence (formal, court-sanctioned debt enforcement). It enables a creditor, through officers of the court (usually sheriff officers), to seize assets belonging to the debtor in the hands of a third party. Many different types of assets can be arrested, however. the vast majority of cases involve seizing money in a bank account ("bank arrestment"). The next biggest category is wages in the hands of an employer.
128. Sections 6 and 7 of the Bill relate to the arrestee's duty of disclosure. The Bill requires an arrestee (the person or body who may be in possession of the assets belonging to the debtor) to tell the creditor where diligence has been unsuccessful. Currently, the law only requires information to be sent to the creditor where diligence is successful.
129. The arrestee would have to tell a creditor whether an arrestment had been unsuccessful and why, within 21 days. If this does not happen, a financial penalty would be applied. The amount would be the lesser of £500 or the amount owed by the debtor.
130. The proposal is likely to have resource implications for banks because they may deal with large numbers of arrestment requests. In their written submission, NatWest Group PLC argued creditors should only be required to respond to specific creditor requests for information about an unsuccessful arrestment. They noted they receive in the region of 70,000 arrestment requests per year and responding to tens of thousands of creditors to confirm that their arrestment had been unsuccessful would serve no useful purpose.
131. In its submission, NatWest Group PLC put forward two alternative proposals—
1. Banks would only have to respond "within a reasonable time" to specific requests; and
 2. That the duty to respond only applied to individual warrants rather than for "bulk" warrants (generally covering council tax enforcement under summary warrant procedure).¹³
132. SMASO also raised concerns about the proposal stating—
-  We believe this proposed requirement will be over-burdensome on arrestees and staff of local authorities and/or officers of the court.²⁴
133. Richard Dennis, the Accountant in Bankruptcy, acknowledged that these reforms would place an additional burden on banks, but explained that banks already check whether they have an account for a particular individual and the level of funds available. He noted that the extra burden would be the additional step of reporting

the information to the Accountant in Bankruptcy, leading to a better diligence system. He sought to assure to the Committee that "with sheriff officers, we should be able to design a way in which that can be done very cheaply and quickly, and we will do our utmost to do so." ⁸

134. The Committee notes the concerns expressed by some stakeholders that the provisions at sections 6 and 7 of the Bill will have resource and cost implications and calls on the Scottish Government to give further consideration to the NatWest Group PLC recommendation that arrestees and potential arrestees should only be required to respond to specific creditor requests for further information.

Diligence on the dependence

135. Under section 8, the Bill requires that an individual debtor is provided with a copy of the [Debt Advice and Information Package](#) (DAIP) before a court hearing relating to diligence on the dependence.
136. The DAIP is a leaflet about debt and debt enforcement which must be given to people before creditors use most types of formal debt enforcement action against them.
137. Those respondents to the call for views who commented on these provisions in the Bill agreed with them, but many felt the DAIP is outdated and needs to be refreshed. This is discussed later in the report.

138. The Committee notes the support from stakeholders for the reforms to diligence on the dependence and is content with these.

Exceptional Attachment

139. Exceptional attachment is seen as a particularly intrusive form of debt enforcement, as it can be used to seize non-essential assets situated in a debtor's home. These assets can be auctioned to raise money to repay the debt. SMASO noted that these procedures are rarely used. ¹⁷
140. Section 9 of the Bill extends the time period debtors have to reclaim seized assets to 14 days. Both Money Advice Scotland ²⁵ and academics from the University of Aberdeen ¹⁸ welcomed these proposals in their call for views submissions.

141. The Committee notes the support from stakeholders for the provisions in relation to exceptional attachment and is content with these.

Additional proposals for diligence reform

142. The Committee notes that witnesses and respondents to the call for views made suggestions for additional proposals for diligence reform. These are set out below.

Money Attachment

143. Money attachment is a form of diligence that can be used to attach money and physical equivalents in business premises. It cannot be used to attach money kept in a debtor's home.
144. Section 10 of the Bill would give greater flexibility around the times when money attachment can be used to seize money kept in business premises.
145. Currently, money attachment can only be carried out - without specific permission from the court - on Monday to Saturday (excluding bank holidays) between 8am and 8pm. The Bill allows for money attachment to take place at any point when the premises is open. This need not mean that the premises is open to the general public.
146. All of the respondents to the call for views who commented on these proposals welcomed them. The Highland Council noted that the move towards cashless payments had lessened the effectiveness of this form of debt enforcement and called for future reform to enable creditors to access electronic transactions.¹⁶

147. The Committee agrees with the provisions on money attachment. It calls on the Scottish Government to consider the suggestion made in evidence that further reforms should be made to allow creditors to access electronic transactions.

Debt Advice and Information Package (DAIP)

148. Many witnesses called for changes to the [Debt Advice and Information Package \(DAIP\)](#) as they do not consider it to be as easy to understand and effective as it could be. ICAS wished to see alternative communication channels explored, including flexible online options.²¹ Other witnesses noted that the information was extensive and technical and had hoped the Scottish Government would take the opportunity to simplify the language and the key messages contained in the document.
149. The Highland Council called for the timescale for the issue of a DAIP to be aligned with the timings applicable to serving a charge for payment. Currently, a DAIP is only valid for 12 weeks and depending on the court date, a DAIP could expire. This would require creditors to re-issue the information, potentially causing confusion and adding to the pressures already on individuals.¹⁶
150. The Minister for Community Wealth and Public Finance confirmed that the package is being updated and that the Scottish Government will be engaging with those who have direct experience of using the booklet to help refresh the information and key

messages in the booklet.⁸

151. The Committee welcomes the news that the Scottish Government is in the process of updating the Debt Advice and Information Package, utilising the experience of those who have used the booklet in the past.

Earnings arrestments

152. The Committee heard from a number of witnesses who would like to see an increase in the sum protected from being seized by creditors in an earnings arrestment. An earnings arrestment (sometimes known as a wage arrestment) is a form of diligence which requires the employer of a debtor to make a deduction from a debtor's net earnings. The amount taken from earnings depends on how much someone earns, with the percentage of money seized increasing as earnings increase. The amount protected from any creditor action in earnings arrestments is currently £655.83.
153. Alan McIntosh from Advice Talks Ltd noted that earnings arrestments can be unduly harsh and that he was in favour of increasing the protected minimum amount from £655.83 to £1,000. He wrote to the Committee, highlighting a [recent survey](#) he carried out on his website in relation to earning arrestments, showing families are struggling to pay for essentials after an earnings arrestment has been made.
154. South Lanarkshire Council suggested giving creditors the power to reduce the amount seized in an earnings arrestment. Local authorities are by far the most common creditor in this situation. The SJSSC in its [Robbing Peter to Pay Paul report](#) agreed with this suggestion as it will help to address the situation where someone cannot pay their current Council Tax liability because too much money is being taken via an earnings arrestment to pay arrears. That Committee also recommended that household composition could be factored into bank and earnings arrestments.^{22 5}
155. The Convention of Scottish Local Authorities (COSLA) wrote to the Committee following an evidence session where earning arrestments were discussed. COSLA stressed the support Local Authorities currently give to those who are unable to pay and cautioned against any alterations to the current system utilised by local authorities in the collection of outstanding Council Tax and other payments.²⁶
156. The Committee urges the Scottish Government to increase the amount protected from creditors in earnings arrestment and other forms of diligence against earnings. The Committee is of the view that increasing the protected minimum amount to £1,000 in line with that which applies to bank arrestments would appear to be reasonable.

Related reforms to be taken forward by regulations

157. As mentioned earlier in this report, the Minister for Community Wealth and Public Finance wrote to the Committee to outline how the Scottish Government is progressing a range of other recommendations from its working groups. These recommendations include proposed changes to diligence laws via regulations.
158. Two of these recommendations (Inhibition and summary warrant, and Information Disclosure Orders) are likely to have a notable impact on creditors and debtors.

Inhibition and summary warrant

159. Inhibition is a formal debt enforcement option that stops a debtor being able to sell, transfer or grant a loan over land or buildings until the creditor is paid. An inhibition lasts for five years but can be renewed.
160. Summary warrant is an expedited court process that can be used by some public bodies to recover money owed to them. It is primarily used by local authorities to enforce payment of council tax. Summary warrant only grants the creditor the power to enforce the debt via attachment, arrestment or earnings arrestment. The Diligence Working Group recommended that inhibition is added as an enforcement option to the summary warrant process.
161. The Committee heard from SMASO that the use of inhibition would be "supported across our profession as another option, given how limited our powers are at the moment." ¹⁷

Information Disclosure Orders

162. The power to make regulations in relation to Information Disclosure Orders was legislated for in the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#). However, this power has never been utilised. The Scottish Government now proposes to take this forward.
163. The intention is that creditors would be able to seek information about a debtor's assets from third parties. This is argued to improve transparency, so that creditors can identify debtors who can pay and target debt enforcement appropriately. However, it is a significant additional tool for creditors, in comparison to the current situation.
164. SMASO believe that the disclosure of information would be "the biggest improvement possible in the work of the Parliament so far as the effective use of diligence is concerned." Without bank account information or employment details, debts cannot be recovered. Andrew Fraser noted that—

” We have reached a stage where, without information disclosure orders, decrees from our courts are unenforceable because of lack of information. If information disclosure orders are introduced, the next step has to be for HM Revenue and Customs to be accountable when it comes to obtaining people's employment details. As far as we are aware, there is no other country in Europe where a court decree after a hearing is unenforceable.

165. Dr Alisdair MacPherson stated that the Law Society of Scotland—

” Support the introduction of information disclosure orders to as wide an extent as possible... as part of a transparency and information-driven approach to diligence, to better enable parties to make accurate decisions and to help the debtor... and on the other side, to help the creditor to enforce debts that are due to them.

166. The Committee notes the significance of some of the related reforms that are additional to the provisions in the Bill and which will be taken forward separately by regulations. It calls on the Scottish Government to consult with stakeholders and reflect fully on the impact of these reforms prior to their introduction.

Conclusion

167. Under rule 9.6.1 of Standing Orders, the lead committee is required to report to the Parliament on the general principles of the Bill. In doing so, the Economy and Fair Work Committee has taken into consideration the evidence from a range of stakeholders.
168. Overall, the Committee is supportive of the Bill's aims. It is of the view that the introduction of a mental health moratorium would be beneficial to those who need it. However, the Committee encourages the Scottish Government to extend the entry criteria to allow more people who are experiencing a mental health crisis to access the mental health moratorium.
169. The Committee has made several recommendations on the moratorium provisions and on the additional reforms set out in the Bill to support the moratorium.
170. However, as the Committee has made clear earlier in this report, it has significant concerns at the lack of detail made available to it during its Stage 1 consideration on how the moratorium will operate. The Scottish Government considers these regulations will allow it greater flexibility to adapt the Bill when necessary. The Committee acknowledges that the detail will be brought forward in regulations and shared with the Committee prior to the commencement of Stage 3.
171. The Committee calls on the Scottish Government to fulfil its commitment to share the draft regulations with the Committee as early as is possible prior to their introduction to allow effective Parliamentary scrutiny to take place.
172. The Committee is supportive of the provisions in the Bill to modify the Bankruptcy (Scotland) Act 2016. It has made recommendations calling on the Scottish Government to consider further reforms to particular elements of bankruptcy legislation.
173. The Committee is broadly supportive of the diligence reforms which form part of the Bill. It has suggested that the Scottish Government consider stakeholder proposals to make improvements to these, together with those additional proposals for diligence reform discussed in this report.
174. The Committee looks forward to receiving the Scottish Government's response to the recommendations and comments contained in this report.
175. In conclusion, the Committee supports the general principles of the Bankruptcy and Diligence (Scotland) Bill and recommends to the Parliament that they be agreed to.

Annexe A - Minutes of Meetings

Extracts from the Minutes of meetings of the Economy and Fair Work Committee—

15th meeting, 2023 (Session 6) Wednesday 17 May 2023

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered its approach to the scrutiny of the Bill at Stage 1 and agreed (1) to launch a call for views; (2) the schedule for oral evidence; (3) to undertake a visit; and (4) that future consideration of oral evidence heard and draft reports be taken in private.

22nd meeting, 2023 (Session 6) Wednesday 13 September 2023

Bankruptcy and Diligence (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

- Dr Alisdair MacPherson, Committee member of the Banking, Company & Insolvency Law sub-committee, The Law Society of Scotland;
- David Menzies, Director of Practice, Institute of Chartered Accountants of Scotland;
- Katie McLachlan, Licensed Personal Insolvency Practitioner, R3 Insolvency & Restructuring; and
- Barry Mochan, Board Member, Insolvency Practitioners Association.

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee decided to invite Mental Health Foundation to give evidence.

23rd meeting, 2023 (Session 6) Wednesday 20 September 2023

Bankruptcy and Diligence (Scotland) Bill: The Committee took evidence from—

- Sarah-Jayne Dunn, Policy Manager for Financial Health, Citizens Advice Scotland; and
- Becca Stacey, Senior Research Officer, Money and Mental Health Policy Institute.

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered the evidence heard earlier under agenda item 2.

24th meeting, 2023 (Session 6) Wednesday 27 September 2023

Bankruptcy and Diligence (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

- Andrew Fraser, President and Roderick Macpherson, Honorary Secretary, Society of Messengers-at-Arms and Sheriff Officers;
- Cheryl Hynd, Council Revenues Manager and Elizabeth McCrossan, Senior Transactions Officer, City of Edinburgh Council.

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered the

evidence heard earlier under agenda item 2 and agreed to invite money advice organisations to give evidence on the Bill and to reschedule the evidence session with the Minister for Community Wealth and Public Finance.

26th meeting, 2023 (Session 6) Wednesday 25 October 2023

Bankruptcy and Diligence (Scotland) Bill: The Committee took evidence from—

- Alan McIntosh, Approved Money Adviser, Advice Talks Ltd;
- Joe McMonagle, Money Advice Training and Development Officer, South Lanarkshire Council; and
- Natalia Mendel, Money Advice Manager, Dalkeith & District Citizen's Advice Bureau.

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered the evidence heard earlier in the meeting, agreed to invite the Minister to give evidence and to seek an extension to the deadline for completion of Stage 1 scrutiny.

30th meeting, 2023 (Session 6) Wednesday 29 November 2023

Bankruptcy and Diligence (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

- Tom Arthur, Minister for Community Wealth and Public Finance;
- Richard Dennis, The Accountant in Bankruptcy and Agency Chief Executive; and
- James Clelland, Solicitor, Scottish Government.

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered the evidence heard earlier under agenda item 1.

1st meeting, 2024 (Session 6) Wednesday 10 January 2024

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered a draft Stage 1 report. Various changes were agreed to, and the Committee agreed to consider a revised draft, in private, at a future meeting.

2nd meeting, 2024 (Session 6) Wednesday 17 January 2024

Bankruptcy and Diligence (Scotland) Bill (In Private): The Committee considered a revised draft Stage 1 report. Various changes were agreed to, and the report was agreed for publication.

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- [2] Scottish Government. (2023, September 14). Letter from the Minister for Community Wealth and Public Finance to the Economy and Fair Work Committee. Retrieved from <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-economy-and-fair-work-committee/correspondence/2023/general-review-of-debt-solutions>
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- [5] Scottish Parliament. (2023, July 2). Robbing Peter to pay Paul: Low income and the debt trap. Retrieved from <https://digitalpublications.parliament.scot/Committees/Report/SJSS/2022/7/2/22c9ae33-c802-4690-8d36-73d65b356069#a28aed54-ac8d-4545-acd3-03b46e43dc3b.dita>
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- [9] Accountant in Bankruptcy. (2023). Mental Health Moratorium Working Group Report of recommendations. Retrieved from https://aib.gov.uk/sites/default/files/mental_health_moratorium_-_report_of_recommendations.pdf
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- [12] Kat Munro. (2023, July). Written submission to the Call for Views. Retrieved from https://yourviews.parliament.scot/efw/bankruptcy-bill/consultation/view_respondent?uuld=1051415222

- [13] NatWest Group PLC. (2023, July). Submission for Call for Views. Retrieved from https://yourviews.parliament.scot/efw/bankruptcy-bill/consultation/view_respondent?uuld=103547183
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