

ECONOMY AND FAIR WORK COMMITTEE

**23rd Meeting, 2023 (Session 6), Wednesday
20 September 2023**

Bankruptcy and Diligence (Scotland) Bill (Stage 1)

Note by the Clerk

Background

1. The [Bankruptcy and Diligence \(Scotland\) Bill](#) (“the Bill”) aims to make changes to the law around bankruptcy and diligence. The Economy and Fair Work Committee was designated as lead committee for consideration of the Bill on 16 May 2023.
2. The Bill is currently at [Stage 1](#) where the lead committee is responsible for examining the Bill. It hears from experts, organisations, and members of the public about what the Bill would do. The Committee will then report and recommend whether or not the Parliament should support the “general principles” (the main purpose) of the Bill.
3. The Bill aims to strengthen and update the law relating to bankruptcy and diligence by implementing various stakeholder-led recommendations. It proposes to achieve this by—
 - a. Providing an enabling power to establish a mental health moratorium on debt recovery action;
 - b. Making minor and technical modifications to the Bankruptcy (Scotland) Act 2016; and
 - c. Making technical modifications to the law of diligence (Scotland’s formal debt recovery mechanisms).

Call for Views

4. The Committee launched a call for views on 25 May which closed on 21 July and [received 16 written responses](#).

5. A letter was received on 14 September from Tom Arthur, Minister for Community Wealth and Public Finance, providing an update on the Scottish Government's General Review of Debt Solutions. This is attached as an annexe to this paper.

Witnesses

6. The Committee will hear evidence from money advice representatives and from mental health organisations to hear how the introduction of a mental health moratorium on debt recovery action will support those who need it most.
7. The Committee will hear from—
 - Sarah-Jayne Dunn, Policy Manager, [Citizens Advice Scotland](#); and
 - Becca Stacey, Senior Research Officer, [Money and Mental Health Policy Institute](#).
8. A [written response](#) to the Committee's call for views was received from Citizens Advice Scotland.

**Economy and Fair Work Committee Clerks
14 September 2023**

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Convener, Economy and Fair Work Committee
The Scottish Parliament
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14 September 2023

Dear Convener,

General Review of Debt Solutions

As you know, the Scottish Government has been working with the Accountant in Bankruptcy to deliver on our commitment to take forward a general review of Scotland's debt solutions.

It was agreed at the outset that the most effective approach would be to approach this wider review in three consecutive stages. The first stage, which focused on immediate priorities to be taken forward in the fifth Parliamentary session to help address short-term consequences of the COVID-19 pandemic, resulted in the set of changes delivered through the Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2021. The second stage, which was progressed through stakeholder-led working groups and which linked with a separate stakeholder-led review of diligence, produced recommendations which have been subject to general consultation and which inform the changes that we are progressing through the current Bankruptcy and Diligence (Scotland) Bill and the broader improvement agenda outlined in my letter of 4 September.

I am writing now to advise you that I am initiating the third stage of the wider review, which will involve a longer term, strategic examination of existing solutions and explore the extent to which they meet the needs of a modern economy. I am sure you will be pleased to know that Yvonne MacDermid OBE has agreed to lead this work. As you will be aware, Yvonne was for many years Chief Executive at Money Advice Scotland and has an enviable reputation for her knowledge, experience and commitment in this area. I am confident that she will take an informed and independent approach to tackling relevant issues, looking at diligence as well as debt solutions, and that her eventual report will lay firm foundations for further action.

Yours sincerely



TOM ARTHUR MSP

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