



The Scottish Parliament  
Pàrlamaid na h-Alba

## **Economy, Energy and Fair Work Committee**

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Dear Jamie,

### **Draft Debt Arrangement Scheme (Scotland) Amendment Regulations 2019**

As you will be aware, the Committee has agreed to take evidence from stakeholders and the Accountant in Bankruptcy (AiB) ahead of our formal consideration of the Debt Arrangement Scheme (Scotland) Amendment Regulations 2019.

Having heard from money advisers and creditors/insolvency practitioners at Tuesday's meeting, I write to highlight the Committee's views on the regulations in advance of your planned appearance with us on Tuesday 17 September.

In summary, the Committee is clear that stakeholders welcome much of what is proposed in the Regulations. However, please note that the Committee has reservations with regulation 4; the first panel unanimously agreed that regulation 4 is the most contentious.

Our primary concern is with the funding of free sector advice. We believe that the results of the AiB consultation on this issue should have been published in advance of the laying of this instrument. We ask that you consider clarifying AiB's role in distributing funds to the free money advice sector and that the Scottish Government consider creating a statutory provision on funding such advice.

David Menzies of ICAS told the Committee:

"it is unclear whether there will be a second set of regulations that will govern how the payments distributor and continuing money advisor fee would be split, or whether that will be set up purely under whatever arrangement the

AIB wishes to apply. The regulations provide a framework for a 20 per cent fee, but how that is split—and everything else—is unclear.

That was part of the disadvantage of the regulations being brought forward while the consultation on how the fee would be returned to the free debt advice sector was still being carried out. Those two elements need to be joined up a bit more.”

Mike Holmyard of Citizens Advice Scotland said:

“They [the Regulations] are a step in the right direction, but the funding of the free advice sector through the regulations is not set out in the regulations. There is a big black hole in terms of our understanding of how we are to be paid.”

Secondly, the Committee is unconvinced that the introduction of provisions that would allow clients to pick their payment distributor is a positive change. There is a view that the current system whereby clients are automatically allocated a payment distributor reduces administrative burden.

Witnesses described this as a “taxi rank” system. Mike Holmyard told the Committee that the automatic appointment of a payment distributor works well and the regulations are “creating a step that we currently do not have to take,” which he said “sounds like a lot of extra work.” We ask that consideration is also given to addressing this issue.

The Committee would welcome your response on how these issues could be addressed.

Finally, I acknowledge your response of 8 August, which outlines your planned consultation on the Bankruptcy and Debt Advice (Scotland) Act 2014. The Committee has considered a number of pieces of subordinate legislation covering statutory debt options and, as we have previously stated, we believe that there is a need for a comprehensive review of the overall landscape of debt options. We would welcome your response to this and whether the Scottish Government is willing to undertake a review of debt options in the near future. to widen the scope of the planned review.

I would be grateful if you could respond by close of business on Wednesday 11 September to allow Committee members time to consider your response in advance of formally considering the current draft regulations at its meeting on 17 September.

Kind regards

A handwritten signature in black ink, appearing to read "Gordon Lindhurst". The signature is written in a cursive style with a large, stylized initial 'G'.

Gordon Lindhurst MSP  
Convener