

RESPONSE TO THE ONLINE CONSULTATION ON THE WORKING DRAFT OF THE PRESCRIPTION (SCOTLAND) BILL

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SOUTH LANARKSHIRE COUNCIL

South Lanarkshire Council ("SLC") welcomes the Scottish Law Commission's attempt to provide clarity on what is a complex area of law. In relation to the particular points raised in the Informal Consultation on the Working Draft ("Consultation") SLC would make the following comments:

1 - Five year Prescription

1.1 SLC agrees with the amendment to the proposal in Discussion Paper No. 160 on Prescription dated February 2016, and outlined in Paragraph 4 of the Consultation restricting the five year prescription period to statutory obligations to make payment only.

1.2 SLC would dispute the suggestion that there is no policy reason to specifically exclude Council Tax and Non Domestic Rates from the proposed default five year prescriptive period. It is SLC's submission that these taxes should be excluded in the same way that the obligation to pay taxes and duties recoverable by HMRC and Revenue Scotland is specifically excluded and that the same policy reasons apply to both. Local Authorities are required by statute to recover Council Tax on all residential properties and Non Domestic Rates on all commercial properties. Recovering such sums is a complex and onerous process due to the number of debtors and complicated legislative framework within which this duty operates. The revenue generated from Council Tax and business rates is essential to enable local authorities to fund front line services. In addition, these particular statutory debts should be distinguished from other debts (including other statutory debts) where there may be dubiety as to the existence of an agreement or value of debt sought. These are known debts which debtors are required to pay but choose not to. Consequently, it is submitted that the duties and responsibilities in relation to the recovery of Council Tax and Non Domestic Rates is analogous to those placed on HMRC or Revenue Scotland and therefore the same policy arguments apply in justifying a longer prescriptive period for the recovery of these debts.

2 – 20 Year Prescription and Miscellaneous

2.1 SLC welcomes the clarity provided by the proposals in relation to the "long stop" date and the effect of a relevant claim on the five year prescription period.