



Charles Garland
Chief Executive
Scottish Law Commission
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Dear Charles

By way of introduction, I am the Chief Executive of Accountant In Bankruptcy (“AiB”) an Executive Agency of the Scottish Government. AiB is responsible for developing and refining the policy and regulation of personal insolvency and statutory debt products for Scotland.

AiB falls under the portfolio of Tom Arthur, Minister for Public Finance, Planning & Community Wealth.

In September 2019, Jamie Hepburn, the then Minister for Business, Fair Work and Skills (AiB’s previous Minister) pledged to take forward a wide ranging policy review of Scotland’s debt solutions. This is now being taken forward by Mr Arthur and the Policy Team within my Agency.

The work undertaken to date has examined immediate policy measures and legislative reform in response to coronavirus and a further stakeholder led policy review focusing on improvements that can be made to existing statutory debt solutions (bankruptcy, Protected Trust Deeds and the Debt Arrangement Scheme).

There is a further commitment to undertake a more strategic and longer term review of debt solutions to assess whether they continue to meet the needs of a modern economy. The Minister chairs a working group on debt solutions and the discussions on the final review support this being undertaken and led independently from AiB and the Scottish Government. Stakeholders are supportive of the Scottish Law Commission leading on this stage of the review in light of previous work on the field of debt and insolvency.

It is envisaged that the review would cover amongst other things but not be limited to the following:

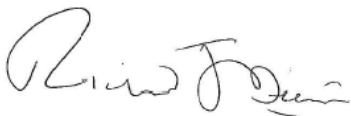
- whether there is a requirement to create a new debt solution. This was raised by the then Economy, Energy and Fair Work committee when they carried out an inquiry into protected trust deeds;
- how the family home is dealt with in debt solutions and the impact of diligence on the family home, including the impact of land attachment which was brought in in 2007 but not commenced;
- whether there is a need to treat trading entities differently within the personal insolvency system;
- funding of the insolvency/debt system; and
- regulation of the insolvency system.

I would appreciate your view on whether the Scottish Law Commission would have an interest and indeed the capacity to take forward this policy review and what the likely timescales would be if approved. I understand that the Scottish Law Commission is currently consulting on its work programme and the new programme is due to start in 2023.

The next meeting of the Ministerial Working Group is scheduled for 26 May and this will be discussed further. It would be good therefore, if at all possible, you were able to revert in advance of the meeting to enable the Minister to provide the stakeholders with an update, including whether it was feasible for the Scottish Law Commission to be involved.

If you require any further information or if it would be helpful to have a meeting to discuss the wider review in more detail, prior to you giving your views, please let me know and I will arrange a meeting.

Yours sincerely



Richard Dennis
The Accountant in Bankruptcy and Agency Chief Executive