INTRODUCTION

1. This document relates to the Debt Arrangement and Attachment (Scotland) Bill introduced in the Scottish Parliament on 7 May 2002. It has been prepared by the Scottish Executive to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Executive and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 52–EN.

GENERAL POLICY OBJECTIVES OF THE BILL

2. The Bill creates a national statutory debt arrangement scheme and establishes a humane and workable alternative to the diligence of poinding and warrant sale, which is to be abolished not later than 31 December 2002. In so doing, it responds to the request of the Justice and Home Affairs Committee, expressed in its Stage 1 Report on the Abolition of Poindings and Warrant Sales Bill (SP Paper 82, paragraph 48) that efforts be concentrated on finding a workable but humane alternative. It implements the central recommendations of the Working Group on a Replacement for Poinding and Warrant Sale in its report Striking the Balance: a new approach to debt management, published on 6 July 2001.

3. The Bill does this by a number of measures. It creates a national statutory debt arrangement scheme to allow people to repay multiple debt by instalment in a managed way, free from the threat of enforcement action. The Bill creates new enforcement procedures and ensures that, where enforcement action is undertaken by creditors under the new procedures, information and advice is provided to debtors as part of the process. It includes new protections for debtors in that process. It creates a special enforcement procedure which may only be authorised in exceptional circumstances as a last resort where valuable non-essential assets are known to exist in domestic premises. The procedure may only be used after judicial enquiry into the debtor’s means and after the debtor has been given an opportunity for voluntary declaration of financial circumstances and assets and access to money advice, including if necessary intervention of an adviser visit.

4. The Executive’s overarching policy objective in this area is to encourage settlement of cases of domestic debt by agreement between debtors and creditors, without the need for legal action. It wants to promote and support the provision of user-friendly information and advice for individuals facing debt problems; to create new opportunities and incentives for debtors and creditors to settle their debts; and to ensure that where debtors are unable to settle their debts by agreement, they do so in a way that is both humane and workable, and which minimises the threat of enforcement action.
creditors to reach agreement; and to establish an effective nation-wide framework for negotiated and managed repayment of multiple debt. Where it proves impossible to reach agreement and where legal action proves necessary, it wants to ensure that the relevant procedures afford meaningful opportunities for debtors to obtain help in order to achieve settlement. And in those domestic cases – hopefully a tiny minority – where there is really no alternative to enforcement action, it wants to guarantee that the necessary decisions are taken on the basis of the individual circumstances of the case, and that enforcement is tightly controlled.

5. The Bill should be seen as part of the Executive’s wider commitment to reform the law of diligence as a whole, on which a consultation document, Enforcement of Civil Obligations in Scotland, was published on 22 April. It should also be seen against the background of the Executive’s recent decision to invest an additional £3 million a year in front line money advice; its support for the Telephone Debtlke project in Fife; and other initiatives to support money advice provision across the country.

CURRENT LAW

6. Enforcement of legally constituted debt (diligence) permits creditors to attach and realise different types of asset held by their debtors in order to satisfy the debt. Poinding and warrant sale is one such form of enforcement, which allows a creditor to attach and sell corporeal moveable property (tangible assets) in the possession of a debtor, in satisfaction of the debt. An order of court for payment of money grants warrant (authority) to enforce by legal means of diligence permitted. Local authorities, and central government departments, notably the Inland Revenue and HM Customs and Excise, can obtain warrants for debts due in relation to taxes, duty and other levies by a fast track means known as summary warrant procedure.

Concerns about the existing law, the 2001 Act, and the Working Group

7. Reforms to poinding and warrant sale, for debtor protection, were introduced by the Debtors (Scotland) Act 1987. However, little advantage was taken of these new rights. Widespread use of poinding by local authorities for the collection of the community charge in the late 1980s and early 1990s led to considerable political and public concern. Poinding was perceived to be unduly harsh and intrusive, because it involved entry into people’s homes. In April 2000, following a request from the Executive, the Scottish Law Commission published a report following public consultation on poinding and warrant sale. It concluded that there were significant problems with the way the diligence had been used, and that there were very mixed views about it: but that it should be retained, subject to further reform.

8. In September 1999 Tommy Sheridan MSP introduced a Member’s Bill in the Scottish Parliament to abolish poinding and warrant sale. That Bill was passed in December 2000. However, recognising that abolition would leave a significant gap in the enforcement system, the Justice and Home Affairs Committee urged the Executive to find a workable but humane alternative and the Parliament decided to defer the Act’s entry into force until no later than 31 December 2002 to allow the Executive time to bring forward alternative proposals. During the passage of the Bill, the Committees and Members involved in its scrutiny expressed wider concerns about the increasing social problem of multiple debt.
9. In order to devise that alternative, the Deputy First Minister established a broadly-based Working Group in June 2000, involving MSPs of different parties; advice, consumer and credit representatives; and local authority, academic and business interests. It was chaired by Angus MacKay MSP, Deputy Minister for Justice and later Minister for Finance and Local Government. It published its report, *Striking the Balance: a new approach to debt management*, in July 2001.

10. The Working Group concluded that the way the poinding and warrant sale procedure had been used in cases of domestic debt was unacceptable. It was equally clear that Scotland needed a comprehensive legal framework for dealing with debt, in the interests of society as a whole. Against that background, it recommended:

- nation-wide provision of user-friendly information and advice for debtors;
- a statutory debt arrangement scheme to help people pay debts in a managed way without the threat of enforcement action;
- creating new incentives for debtors and creditors to reach negotiated settlements;
- reforming the enforcement procedure to afford much greater protection to debtors in the event of legal action being necessary;
- making a clear distinction between domestic and commercial cases;
- introducing new safeguards to ensure the enforcement action can only be taken against those who can, but refuse to, pay their debts;
- assisting the debtor by providing opportunity for voluntary disclosure;
- introducing a final sanction against those who can pay but unreasonably refuse to sell valuable non-essential goods to meet their responsibilities;
- a fast-track process for compulsory sale in commercial cases;
- reforming the role and regulation of officers of court when carrying out enforcement action.

11. The Deputy First Minister put the Working Group report out to consultation, without amendment, on 18 July 2001. The Working Group’s recommendations were extremely well received with the great majority of the recommendations receiving positive support in excess of 90%. On 19 December 2001, the Deputy First Minister announced that the Executive would implement the approach recommended by the Working Group; and would invest an additional £3 million a year in front-line money advice services across Scotland. The Debt Arrangement and Diligence Bill forms an essential component in delivering on that commitment.

**GENERAL PURPOSE**

12. This Bill provides an innovative approach to debt management and enforcement.

13. It creates a national statutory debt arrangement scheme to enable multiple debts to be addressed with the support of money advisers and paid in a managed regime over a period of time, during which enforcement and sequestration action will be prohibited. It creates a new
method of enforcement of legally constituted debt, known as attachment, to be permitted against corporeal moveable property in commercial cases. It makes provision, in exceptional circumstances where strict criteria are satisfied, for an order of court in respect of non-essential valuable assets in domestic cases. In order to minimise recourse to enforcement in such domestic cases and to direct creditors and debtors towards negotiated settlements and, in particular, towards the debt arrangement scheme, the Bill makes provision for incorporation of money advice as an integral part of the enforcement process. In such cases provision is made for money advice, means enquiry and, if necessary, intervention of a domestic visit by a money adviser; as well as an opportunity for debtors to make a voluntary declaration about their circumstances. As a consequence of these provisions, it is anticipated that the vast majority of domestic cases will be channelled into the debt arrangement scheme or other form of negotiated settlement.

14. The broad policy objective is to provide for a new approach to debt management in domestic cases, based on negotiation and voluntary agreement without the need for enforcement action; while introducing a humane and workable alternative to poinding and warrant sale within the context of easily accessible advice and assistance and greater protection for domestic debtors. This will provide maximum protection to vulnerable debtors whilst maintaining a comprehensive system for enforcement of legally constituted debts against those who can but refuse to pay.

PART 1: DEBT ARRANGEMENT SCHEME

Aims

15. Part 1 of the Bill introduces one element of an alternative approach to debt management and enforcement, the creation of the debt arrangement scheme. The aim of the debt arrangement scheme is to enable individuals, who cannot meet their debts as they fall due, to pay them in a managed way, by regular payments, over a specified period of time, free from the threat of enforcement action. It is a means of managing the social problem of multiple debt and is regarded as a ‘diligence-stopper’ for debtor protection in enforcement.

16. A regime similar to the debt arrangement scheme was first recommended by the Scottish Law Commission in 1985 in its report which led to the Debtors (Scotland) Act 1987. Whilst not then implemented, current opinion is now widely in support of a debt arrangement scheme. One of the Working Group’s central recommendations was the introduction of a national statutory debt arrangement scheme and this received 90% support on public consultation.

17. The Executive is consulting on the operational detail of the debt arrangement scheme in its review of the law of diligence. In view of the importance which the Executive attaches to the establishment of such a scheme, having regard to the Working Group’s recommendation and wide public support, the Executive wants to introduce the scheme as soon as possible. Accordingly, the Bill provides the foundation for such a scheme and empowers the Scottish Ministers to make further provision for the scheme by way of regulations to be prepared in light of the consultation. The consultation document puts forward a number of detailed proposals on the debt arrangement scheme for discussion.
Proposed arrangements

18. It is intended that a body be established by the Scottish Ministers to administer the debt arrangement scheme. Participation in the debt arrangement scheme will be accessible nationwide and open to personal debtors and sole traders with multiple debts. Trained money advisers will assist with devising manageable debt payment programmes in consultation with creditors. Single regular payments will be distributed amongst creditors by an approved payment distribution facility. In order to enable repayment of debts to take place according to an approved programme, enforcement action or sequestration will be suspended during debtors’ participation in the scheme.

19. The Bill gives the Scottish Ministers power to make further provision for the manner in which the scheme is to operate, its effects and the conditions with which participants and others affected by it must abide. It specifies detailed legal and operational matters for which regulations may be made to ensure efficient and effective creation and operation of the scheme. In particular, the debt arrangement scheme should be subject to limits, including in relation to monetary levels of debt, types of debt, period of the scheme, and restrictions on new debt or credit. Arrangements for creation of, and controlled access to, a register would be necessary. The precise manner in which such matters will apply will be determined following the results of the Executive’s consultation which ends on 16 July 2002. Detailed specification of the Executive’s proposals is set out in Part 4D of its current consultation document on Enforcement of Civil Obligations in Scotland.

Alternative approaches

20. The Working Group attached importance to the creation of a national statutory debt arrangement scheme, which is a view shared by the Executive. It is a policy requirement that during participation in the debt arrangement scheme enforcement action and sequestration should be prevented. Alternative models which were considered within the Executive’s review are mentioned in the consultation document (paragraph 4.150). The Executive does not consider that there is any acceptable alternative to the general approach it proposes, although views regarding alternatives on matters of detail are sought on consultation.

21. Whilst it would be possible to specify more detailed provisions for the debt arrangement scheme in the Bill, the flexibility of the regulation making power means that the Executive can implement more detailed elements of the scheme after having regard to representations in the current consultation process.

PART 2: ATTACHMENT

Aims

22. Parts 2 and 3 of the Bill introduce the second element of the Executive’s new approach to debt management and enforcement. In conjunction with the provisions of Part 1, Parts 2 and 3 of the Bill create the workable, but humane alternative to poinding and warrant sale sought by the Scottish Parliament. The Justice and Home Affairs Committee considered that the law must provide enforceable mechanisms for the recovery of debt which necessarily involve a degree of coercion and the aim must be to strike a balance between effective enforcement and debtor
protection. It considered that the right balance was not met by poinding and warrant sale when it was used in domestic cases.

23. The Working Group recommended that commercial and domestic cases should be treated very differently. This was to ensure that much greater debtor protection was afforded to individuals in their homes than is required for commercial entities in commercial premises. This received widespread support on consultation and the Executive has therefore followed the approach recommended by the Working Group.

Proposed arrangements

24. Part 2 provides for attachment of property. Part 3 provides for special procedures which are to be followed when attaching property kept in domestic premises.

25. The Bill makes provision for incorporation of information and money advice as an integral and early part of the enforcement procedure in order to avoid enforcement. The Working Group considered that, while essential in the domestic context, information and advice could be a valuable tool to some debtors in the commercial context as well, such as small businesses and sole traders. An advice and information package will be made available by the Executive for distribution by creditors at any stage when seeking repayment of debt and will be made widely available to debtors by other means. It will include basic money advice, details of where debtors may obtain further advice locally about individual circumstances and information about what could happen under the enforcement process if management of debt is not tackled.

26. Attachment will not be competent against property which takes the form of any items necessary for the purpose of a debtor’s profession trade or business up to the value of £1,000. Provision is made for certain property to be released or redeemed from attachment. In particular, a vehicle may be released from attachment where the sheriff is satisfied that it is appropriate to do so on the ground of undue harshness in the circumstances of the individual case. A caravan, houseboat or other mobile home owned by the debtor but used by a third party as his principal residence may be released from attachment. So too may property attached which is found to belong to a third party. Property owned in common with a debtor may be transferred to the joint owner for a sum equal to the value of the debtor’s interest in it, or it may be replaced or released on the ground of undue hardship. Where appropriate a proportion of the proceeds of auction may be paid to the joint owner. For these reasons, enquiries will be made to establish the debtor’s ownership of the property when undertaking an attachment.

27. Provision is made to ensure that the procedures are judicially supervised and that, properly qualified professionals are involved at appropriate stages. Property attached will be valued, as necessary by a professional valuer, and a report will be submitted to the sheriff. Once property has been attached it will be unlawful to remove, sell, gift or otherwise dispose of it or wilfully damage or destroy it. Provision is made that in the event that this condition is breached the person responsible for doing so must consign an equivalent sum of money to the court. Premises which are shut or locked may be entered as necessary.

28. Provision is also made to ensure that arrangements for auction are properly arranged and made known to those with an interest and take place at a public auction house. Notice of the
time and place of an auction will be given to the debtor and will be advertised by public notice. The arrangements may only be altered due to unforeseen circumstances and within strict time limits. Arrangements may be made, by specific order of the sheriff, for the sale of property which is perishable to be expedited or for security to be given for specified property. A record will be made of the auction and a detailed report of the auction will be made to the sheriff. This will be audited by the Auditor of Court whose report will be made available for inspection. The proceeds will be applied to pay the creditor, to meet chargeable expenses and to pay any surplus to the debtor. The parties’ liability for expenses chargeable in respect of attachment and auction are provided for in this Part of the Bill and in Schedule 2.

Alternative approaches

29. The Working Group’s recommendations, which are followed in Part 2 of the Bill, were made following its consideration of alternative approaches, including a proposal put to it for access to information about debtor’s financial circumstances as an alternative to any enforcement (paras 61-63) and enforcement without any entry to premises (paras 122 - 136). The Working Group’s recommended approach received widespread support on extensive public consultation. No new or alternative approach to that recommended by the Working Group was put forward by respondents to the consultation.

PART 3: ATTACHMENT OF ARTICLES KEPT IN DWELLINGHOUSES: SPECIAL PROCEDURE

Aims

30. Part 3 of the Bill implements the Working Group’s recommendations for the very different regime required in relation to domestic cases. It is intended that only in the last resort will attachment be used in a person’s home. It will be necessary for a money advice and information pack to have been provided and the taking of money advice is encouraged, including where necessary by a domestic visit by a money adviser. This will enable other avenues for resolution of the debt to be followed. It makes it necessary to return to court, after a decree or other authority to enforce has been obtained, for judicial assessment and means enquiry of a person’s ability to pay. It provides a cumulative series of measures which mean that, only in very exceptional circumstances where strict criteria are satisfied, may an order of court be granted which permits assets, which are not essential and which, in aggregate, are above a specified value, to be attached.

Proposed arrangements

31. The Bill makes provision for incorporation of information and money advice as an integral and early part of the enforcement procedure in order to avoid enforcement. The Scottish Ministers may prescribe the type of information which is to be provided. The intention is to require the provision of information which will assist creditors and debtors achieve negotiated settlements and direct them towards the debt arrangement scheme. A money advice and information package will be made available by the Executive for distribution by creditors at any stage when seeking repayment of debt and will be made widely available to debtors by other means. It will include basic money advice, details of where debtors may obtain further advice
locally about individual circumstances and information about what could happen under the enforcement process if management of debt is not tackled.

32. It will be necessary for an application to be made to the court in all cases where a creditor wishes to pursue attachment in a domestic dwellinghouse. It will, therefore, be necessary for each case to be considered individually on its merits both by the creditor, when considering whether to pursue this course, and by the court when considering whether to grant an exceptional attachment order permitting enforcement by this means.

33. Money advisers or other lay persons can provide further assistance by representing debtors in court. The Bill enables provision to be made by rules of court for a party in an application for an exceptional attachment order to be represented by a lay person.

34. When deciding whether to grant an exceptional attachment order, the court will have to consider a number of relevant factors. These include whether the debtor has received money advice and, where appropriate, will make that opportunity available, if necessary by intervention of a domestic visit by a money adviser. The court will also consider whether negotiated settlement has been attempted, any previous time to pay arrangement and whether other avenues of enforcement by arrestment had been explored if appropriate. In doing so, the court will have regard to the debtor’s ability to pay as part of a means assessment. To assist the court, the debtor will have the opportunity to make a voluntary declaration about his financial circumstances and any valuable non-essential assets. The court will also be allowed to have regard to the nature of the debt, particularly where it involved any trade, business or unpaid tax.

35. Taken together, these measures are intended to ensure that debtors who do not have valuable assets and cannot pay are filtered out. They are, thus, intended to ensure that an exceptional attachment order will only be granted as a last resort where a debtor does have means to pay the debt but consistently refuses to do so. Equally important, they will direct vulnerable debtors to expert money advisers who can help them to manage multiple debt problems. For this reason, it is anticipated that the vast majority of domestic cases will be channelled into the debt arrangement scheme or other form of negotiated settlement.

36. As a result, there should be a very small number of cases where the court considers the circumstances to be exceptional and so merit granting an order. In those cases, valuable assets which can be reasonably realised in satisfaction of a debt will be taken for auction at a public auction house. This will only be done where there is a reasonable prospect that the sale of such assets will realise both the expenses of the procedure and a minimum of 10% of the debt due or £50.

37. Only valuable assets which are not essential to a debtor or his family or household will be capable of being auctioned. The Working Group considered that vulnerable debtors need to be protected from selling essentials to avoid enforcement and that the best way of guaranteeing that would be to set out very clearly essential items which must be exempt from the procedure. They considered that attempting to list assets which should be regarded as valuable would be unworkable. The Working Group did not recommend items to be classified as essential. The Executive invited interest groups to make suggestions. The Scottish Law Commission had also made recommendations in this respect in its Report on Poinding and Warrant Sale. Provision is
made in the Bill for an exceptional order to be made in respect only of non-essential assets and the Bill lists essential items in accordance with these recommendations and suggestions.

38. Where an auction does take place, the procedure will follow that set out in Part 2.

Alternative approaches

39. Before deciding on its proposed approach, the Working Group considered whether there were any viable or acceptable alternatives. It concluded that an approach without an effective last-resort sanction for domestic cases would:

- leave a loophole in the enforcement system;
- send a strong message that in some circumstances debtors could avoid paying legally constituted debts with potentially wide-ranging consequences,
- particularly affect involuntary creditors, such as those collecting council tax, water charges, council rents and other liabilities which would lead to poorer services or increased charges for the community as a whole;
- lead to an increased use of sequestration for debts over £1500, which the group considered to be much harsher than the approach it proposed; and
- result in increasing recourse to informal methods of debt collection which was said, sometimes, to involve unacceptably intimidating tactics.

40. The Working Group was unable to identify any other option for a sanction of last resort except civil imprisonment which, although a common feature of other enforcement systems, was considered by the Working Group to be totally unacceptable in Scotland. The Executive agrees.

41. Extensive public consultation on the Working Group’s report revealed widespread support for the approach it proposed. No new or alternative approach to that recommended by the Working Group were put forward by respondents to the consultation. The Executive has, therefore, followed the approach recommended by the Working Group.

PART 4: ABOLITION OF POINDINGS AND WARRANT SALES

42. Taken together Parts 1, 2 and 3 of the Bill create the workable but humane alternative to poinding and warrant sale sought by the Scottish Parliament and recommended by the Working Group. Part 4 of the Bill makes necessary repeals and saving provisions in respect of the abolition of poinding and warrant sale. The Abolition of Poinding and Warrant Sales Act 2001 abolished that procedure with effect from 31 December 2002. It was passed with a deferred date of entry into force on the basis that the alternative arrangements sought by the Justice and Home Affairs Committee were to be in place by then. This Bill establishes these alternative arrangements and supersedes the 2001 Act. It abolishes the 2001 Act in order to avoid complicating the statute book to no practical effect.
PART 5: MISCELLANEOUS AND GENERAL

43. Along with Schedule 3, Part 5 provides for necessary minor and consequential amendments and repeals to existing legislation. It provides for application of the Bill to the Crown. It makes provision for the Act to enter into force on 30 December 2002. The power to make rules of court by Act of Sederunt is to be exercisable from the date of Royal Assent of the Bill in order to enable rules of court to be in place by the time the remainder of the Bill is brought into force.

CONSULTATION

44. As noted at paragraphs 11, 16, 23, 29 and 41 the Working Group’s report, which forms the basis of the Executive’s approach, was the subject of a wide consultation between June and October 2001. The Working Group’s recommendations were extremely well received. No new or alternative approaches were put forward. Other related consultation undertaken by the Scottish Law Commission is mentioned at paragraph 7. The Executive’s current consultation on a debt arrangement scheme amongst other matters is mentioned at paragraphs 5, 16, 17, 19 and 20.

EFFECTS ON EQUAL OPPORTUNITIES

45. The proposed approach should have no impact on equal opportunities.

EFFECT ON HUMAN RIGHTS

46. The provision of the European Convention of Human Rights which appears to the Executive to be of most relevance in the context of the Bill is Article 1 of Protocol 1 (protection of property). This provision establishes the right to peaceful enjoyment of possessions and the general right not to be deprived of possessions except in the public interest.

47. The Bill’s provisions are concerned with arrangements for the payment of debts and mechanisms for enforcing payment. The Bill does not relate to establishing whether a debt is due – this will already have been established in the court process leading up to the granting of the relevant court order. Hence, the property rights with which the Bill is concerned, and in respect of which Article 1 of Protocol 1 may be relevant, are not just the property rights of the debtor (whose property may be subject to attachment under Parts 2 and 3) but also those of the creditor in the debt (who will have obtained a court order and has a property right in consequence).

48. The Executive considers that the Bill’s provisions strike a fair and proportionate balance between the property rights of the debtor and those of the creditor. Provisions are put in place to ensure that the enforcement procedures provided for in the Bill do not have disproportionate consequences for the debtor, particularly by exempting essential items from the attachment process (section 11). At the same time, it is not made disproportionately difficult for a creditor to enforce payment under any court order obtained.

49. The Executive also considers that issues under Article 8 of the ECHR (right to respect for private and family life) may arise in connection with the provisions of Part 3 of the Bill which
allow articles kept in a dwellinghouse to be attached in certain circumstances. The Executive is
of the view that Part 3 is not incompatible with Article 8 – the provisions set out there are
considered to be “necessary in a democratic society in the interests of … the economic well-
being of the country [and] … for the protection of the rights … of others” (Article 8.2).

EFFECT ON ISLAND COMMUNITIES

50. The proposed approach should have no distinctive impact on island communities.

EFFECT ON LOCAL GOVERNMENT

51. The alternative approach to debt management and enforcement introduced by the Bill
will certainly have an impact on local authorities, which are involuntary creditors and significant
users of enforcement procedures. It should be of clear benefit to local authorities.

52. As for all creditors, the Bill affects the range of remedies by which unpaid debts owed to
local authorities may be legally enforced. In the absence of the measures provided for by the
Bill, local government would experience a significant reduction in recovery rates of unpaid debt.
This is because, in the absence of the Bill, there would be no alternative arrangements in place
when abolition of the current method of enforcement against corporeal moveable property,
poinding and warrant sale, takes effect at the end of 2002 as a consequence of the Abolition of
Poindings and Warrant Sales Act 2001 (asp 1). That method had been widely used by creditors
and regarded by them as effective. In that event, it would become impossible to undertake
enforcement action in respect of this type of asset against any bad debtors, most notably the
commercial cases. It would also become impossible to enforce payment in the few cases where
domestic bad debtors, who were able but refused to pay, held valuable non-essential assets.

53. Local authority recourse to attachment will be affected by the volume of unpaid debt and
the means chosen by them to pursue it. The strict conditions under which an exceptional
attachment order for domestic cases may be permitted, so that it would be available only
exceptionally in the last resort, will apply equally to local authorities as to other creditors. It is
intended that the information and advice package will be widely used by local authorities when
issuing statutory notices for unpaid council tax, rent arrears and other debts and be made
available by them generally. This should assist local authorities in achieving negotiated
settlements without the need for recourse to enforcement.

54. It is anticipated, subject to the current consultation, that, when calculating surplus income
for distribution under the debt arrangement scheme, government debts will be regarded as
priorities for debtors, along with current liabilities for local authority and other essential services,
such as those provided by the utilities (gas, electricity etc.).

EFFECT ON SUSTAINABLE DEVELOPMENT

55. The proposals should have no impact on sustainable development.
DEBT ARRANGEMENT AND ATTACHMENT
(SCOTLAND) BILL

POLICY MEMORANDUM

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