What is your general view on the Bill and broadly, are you supportive of it?
In general we are in favour of the Bill and the move to modernise the legislation relating to bankruptcy and debt.

Did you take part in the Scottish Government’s consultation on the Bill and have your views been reflected?
We took part in the consultation exercise in Inverness relating to the Bill and our views have been reflected.

What is your view on the following proposals within the Bill?

Advice and education: provision of compulsory money advice from an approved money adviser for anyone considering accessing a statutory debt relief or debt management product; mandatory requirement for individuals to participate in financial education [Policy Memorandum paras. 18-33]
We welcome the requirement for compulsory money advice from an approved money adviser prior to the client making an application for bankruptcy. Whilst this will possibly be an additional pressure on our resources, the provision of money advice prior to an application for bankruptcy will hopefully cut down on the cases we in The Highland Council encounter who have been or are still bankrupt and are again failing to maintain their current liabilities, such as rent and council tax. Bankruptcy is a serious step for any debtor and has possibly been treated too lightly by some debtors in the past. Bankruptcy should enable debtors to have a fresh start, however it is not uncommon for certain individuals, e.g. some of whom have never paid council tax, to continue this habit post-bankruptcy. Upcoming Direct Payments due to Welfare Reform, will ‘raise the stakes’ in relation to the need for debtors to manage their budget.

Financial education is therefore of importance also and we in the Highland Council do provide this in conjunction with debt advice. We aim to provide a grounding in financial education prior to any bankruptcy application e.g. to ensure that clients are able to maintain bankruptcy contributions etc., but we are aware that not all money advice agencies do this.

It is important that debtors who owe money to Highland Council do not perpetuate the cycle of bankruptcy and accruing more debt due to non-payment of on-going liabilities.

Payments by debtor following bankruptcy: development of a common financial tool to be used to calculate the amount of any contribution to be made by an individual from any surplus income they have; allowing the Accountant in Bankruptcy to make an order fixing the debtor’s contribution towards their bankruptcy; requiring debtors, assessed as being able to make contribution towards their bankruptcy, to make such payments throughout payment period (48 months); allowing an assessed contribution to be deducted from the debtor’s wages; provision of a payment break up to six months [Policy Memorandum paras. 34-73]
We support the use of a common financial tool as this will enable money advisers to provide clear advice to debtors about the amount of contribution that may be required by a Trustee and also this will assist advisers to discuss household spending with debtors. The Highland Council has been involved in the Common Financial Tool Working Group and in our view, the discussions have been constructive. The alignment of the Common Financial Tool across all debt relief and debt management solutions is also to be welcomed; this will enable advisers to work within the guidelines to promote good financial management by debtors. The flexibility of a payment break is also a positive move, particularly given the increased period of the contribution from 36 to 48 months.

From a creditor’s point of view, the ability to deduct monies direct from wages will also help ensure that creditors receive a return on monies due.

**Bankruptcy where debtor has few assets: introduction of ‘minimum assets process’ to replace the ‘Low Income Low Asset’ route [Policy Memorandum paras. 74-88]**

In general, we agree with the proposals in Section 5 of the Bill i.e. the minimum assets process’ (MAP) however, the Common Financial Tool used in the assessment, will dictate how many debtors are able to enter this. In section 5 of the Bill, regarding the ‘minimum assets process’ it is hoped that, in exceptional cases, the approved money adviser will be able to make a ‘business case’ for entry into MAP if for example the expenditure is slightly above that calculated by the Common Financial Tool. Discussions with the Common Financial Tool Working Group would indicate that the Common Financial Tool figures are a benchmark rather than ‘set in stone’. Given the rural nature of parts of the of the Highland Council area, certain costs e.g. heating and in particular car/travel costs may be very high. This issue has already been raised with the Common Financial Tool Working Group.

**Moratorium on diligence: introduction of six week single moratorium on diligence [Policy Memorandum paras. 89-95]**

The moratorium on diligence will assist money advisers gather all relevant information to underpin the provision of advice to debtors to ensure that debtors do not rush into inappropriate debt solutions.

**Application for bankruptcy: requirement to sign a ‘Statement of Undertaking’ relating to the debtor’s duties and obligations during the bankruptcy process; removal of provisions from the Bankruptcy (Scotland) Act 1985 relating to incomplete and inappropriate debtor applications;**

In our view this is a positive step.

We have no further comments on this call for evidence.