I am writing further to my appearance before Committee on 22 January for stage 2 of the Bankruptcy and Debt Advice (Scotland) Bill. You will recall we discussed the Scottish Government’s amendment 57, which among other things brings legal persons within the enabling powers for the Debt Arrangement Scheme (DAS) Regulations in the Debt Arrangement and Attachment (Scotland) Act 2002, as DAS currently only extends to the debts of individuals. I mentioned in particular extending the scheme to partnerships. During the discussion, you asked whether other non-natural persons would be caught by the measure and I promised to write to you with further details. I trust that the following will be helpful.

The Scottish Government has developed its ‘Business DAS’ scheme in response to stakeholder feedback. Stakeholders have advised that the main gap in the existing DAS Regulations is the inability for business partnerships to enter a Debt Payment Programme. Currently, DAS does not cater for partnerships, other than where each partner can use DAS individually to repay their share of any personal liability, or other legal persons.

The intention is that these changes to the Bill will enable the DAS Regulations to be expanded to apply to all legal persons aside from companies, limited liability partnerships and entities where an enactment provides that sequestration is incompetent. This would mean that the regulations would cover partnerships, including limited partnerships, trusts and other corporate and unincorporated bodies (subject to the caveat above), and is broadly analogous to the scope of sequestration and the Protected Trust Deeds (Scotland) Regulations 2013 1.

FERGUS EWING

1 See section 6 of the Bankruptcy (Scotland) Act 1985 and regulation 4 of SSI 2013/318.