

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

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HMRC

Dear Sirs

Thank you for the opportunity to comment on the draft Prescription (Scotland) Bill.

HMRC notes the draft, at section 3(3)(b) proposes amending Schedule 1 to the 1973 Act by inserting a sub-paragraph (fa) to read:

*"(fa) to any obligation to pay taxes or duties that are recoverable by the Crown, including any penalty or interest that is recoverable as if it were an amount of such taxes or duties;"*

The effect will be to exclude the obligations described from the five year prescriptive period under section 6 of the 1973 Act. We understand, then, the intention is that the longer prescriptive period of 20 years will apply. We are content with that.

However, while the proposed amendment makes specific mention of taxes, duties, penalties and interest we are concerned that National Insurance Contributions (NICs) have been omitted. While NICs are indeed recoverable as if they were tax (see section 16(1) Social Security Contributions and Benefits Act 1992 and Paragraph 16(1) of Schedule 4 to the Social Security (Contributions) Regulations 2001) we are not sure they are sufficiently covered by the proposed amendment.

In addition to NICs there are various other debts recoverable as if they were tax. There is a useful summary online at [paragraph 450010 of HMRC's Debt Management and Banking Manual](#). We suggest that to ensure all such debts (including NICs) are excluded from the five year prescriptive period the proposed amendment reads:

*"(fa) to any obligation to pay taxes or duties that are recoverable by the Crown, including any penalty, interest or any other sum that is recoverable as if it were an amount of tax."*

We hope the phrase: *"any other sum that is recoverable as if it were an amount of tax"* will adequately cover NICs and other debts and that you can agree. If you would like further background then please let me know.