

# Families with Children and Young People in Debt (Respite) Bill

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**B I L L**

TO

Place a duty on lenders and creditors to provide periods of financial respite for families with children and young people in debt in certain circumstances; to place a duty on public authorities to provide access to related advice, guidance and support in those circumstances; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Family Debt Respite Scheme**

There shall be a scheme for the provision of financial respite for families with children and young people in debt to be known as the “Family Debt Respite Scheme” (“the Scheme”) established in accordance with this Act.

**2 The Scheme: eligibility to apply**

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(1) The Secretary of State must make regulations entitling a person in debt (“the debtor”) who satisfies specified conditions as to their—

- (a) parental, caring or other guardianship responsibilities for children and young persons, or status as a young person living independently,
- (b) indebtedness,
- (c) financial circumstances, and
- (d) previous engagement with the Scheme

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to apply to enter the Scheme.

(2) The regulations for determining the debtor’s entitled to enter the Scheme shall have regard to the following factors—

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- (a) parental responsibility or equivalent form of practical care or guardianship in respect of one or more child under the age of 18 or in full-time education or both;
- (b) household income;
- (c) household indebtedness;
- (d) where a debtor had one or more previous periods of membership of the Scheme—

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- (i) the extent to which the debtor met the Scheme requirements during the period of membership of the Scheme; and
    - (ii) any changes in circumstances since the debtor was a member of the Scheme.
  - (3) The Secretary of State may by regulations designate— 5
    - (a) other categories of debtors with relevant care or guardianship responsibilities, or young persons living independently, as entitled to apply to enter the Scheme, or
    - (b) other factors as relevant factors to which regard must be given under subsection (2). 10
- 3 The Scheme: entry**
- (1) The application by a debtor to enter the Scheme must be made to a Debt Advice Provider (see section 4).
  - (2) On receipt of an application the Debt Advice Provider must satisfy themselves that the applicant satisfies the conditions for eligibility under section 2. 15
  - (3) Prior to approving an application to, and granting an eligible applicant membership of, the Scheme, a Debt Advice Provider must satisfy themselves that—
    - (a) the applicant is unable to pay one or more relevant debts as defined section 9; 20
    - (b) entry into the Scheme would likely be in the best interests of the;
      - (i) applicant, and
      - (ii) the children and young persons for whom the applicant has responsibilities as defined under section 2;
    - (c) appropriate for the individual circumstances of the applicant and other persons in their household; and 25
    - (d) the applicant agrees to, and is likely to be able to comply with, the requirements of a Debt Repayment Plan, as defined under section 5, that forms part of the applicant’s approved Scheme membership.
  - (4) The Debt Advice Provider may require an eligible applicant (as defined at subsection (2)) to make interim affordable repayments of certain debts for no more than 12 months pending the finalising of a Debt Repayment Plan (see section 5). 30
  - (5) The Secretary of State may make regulations containing provision for further conditions for entry into the Scheme or for how the conditions in this section shall be applied. 35
- 4 Debt Advice Provider**
- (1) For the purposes of this Act a Debt Advice Provider is a person or organisation—
    - (a) with permission under Part 4 of the Financial Services and Markets Act 2000 to carry out the regulated activities of debt adjusting and debt counselling; or
    - (b) who satisfies the conditions in that Act for exemption from the requirement to have such permissions. 40

- (2) A Debt Advice Provider who meets the requirements of or under this section can—
  - (a) assess and determine eligibility to apply for membership of the Scheme (section 2); and
  - (b) determine entry and membership of the Scheme. 5
- (3) The Secretary of State may by regulations add additional requirements to those at subsection (1).
- (4) A Debt Advice Provider offering advice and other services in respect of the Scheme must ensure that they—
  - (a) establish and implement effective policies and procedures to identify vulnerable applicants and to deal with such people appropriately, and 10
  - (b) comply with any guidance issue by the Secretary of State under subsection (6).
- (5) For the purpose of this section, such policies must refer to the additional vulnerabilities of debtors— 15
  - (a) in households with dependent children under the age of 18,
  - (b) with a disability, or in households with a disabled person, and
  - (c) who are care leavers.
- (6) The Secretary of State may issue guidance to Debt Advice Providers on— 20
  - (a) the exercise of their duties under this section, and
  - (b) the operation of the provisions of this Act.

## 5 A Debt Repayment Plan

- (1) A Debt Repayment Plan (“Plan”) is a plan that meets five conditions.
- (2) The first condition is that the Plan must include all of the debtor’s relevant debts. 25
- (3) The Debt Advice Provider must make a determination of which of the debtor’s debts are relevant debts (as defined in section 9) for the purposes of inclusion in the debtor’s Plan.
- (4) The second condition is that— 30
  - (a) the Plan sets out the extent to which the protection afforded by the Scheme applies to the listed relevant debts, and
  - (b) the relevant creditors have been notified of the Debt Advice Provider’s determination.
- (5) The third condition is that the Plan requires the debtor to make payments in respect of their relevant debts, so that these debts will be paid off within a reasonable period. 35
- (6) The Plan may require payments of different amounts to be made in respect of debts at different times.
- (7) The fourth condition is that the debtor agrees to the Plan.
- (8) The fifth condition is that the Debt Advice Provider considers that the debtor is likely to be able to comply with the requirements of the Plan. 40
- (9) A Plan will come to an end when—
  - (a) all the debtor’s relevant debts are repaid,

- (b) as a result of a change in the debtor’s circumstances, the Debt Advice Provider determines that their membership of the Scheme is no longer suitable to their circumstances,
- (c) the debtor fails to abide by the terms of the Plan, or
- (d) other circumstances set out in regulations made by the Secretary of State apply. 5
- (10) The Secretary of State must make regulations—
- (a) setting out the method by which the Debt Advice Provider is to determine the levels of repayments made consequent to subsections (5) and (6); 10
- (b) the matters to be taken into consideration, and processes to be followed, by the Debt Advice Provider to determine whether a debtor has abided by the terms of the Plan; and
- (c) prescribing the method, form and timing of the notification required at subsection (4)(b) is to be made to creditors. 15
- 6 Scheme membership**
- (1) On receipt of an application where the Debt Advice Provider is satisfy that the applicant satisfies the conditions for eligibility under section 2, the Provider may—
- (a) grant temporary membership of the Scheme for up to 12 months; and 20
- (b) require the applicant to make repayments under section 3(4).
- (2) A debtor whose Plan meets the conditions set out in section 5 becomes a member of the Scheme.
- 7 Scheme protections**
- (1) Membership of the Scheme shall engage some or all of the protections in this section. 25
- (2) The available protections are—
- (a) a creditor is not entitled to present a bankruptcy petition against a member of the Scheme in respect of a relevant debt;
- (b) a creditor is not entitled to pursue any remedy against a member of the Scheme for the recovery of a relevant debt other than is provided for as part of an agreed Plan; 30
- (c) any existing court proceedings that relate to a relevant debt are stayed other than may be provided for as part of an agreed Plan;
- (d) a domestic utility provider (i.e. a supplier of gas, electricity or water to a household or of associated services) may not cease that supply in respect of a member of the Scheme; 35
- (e) a creditor may not make a demand for payment of a relevant debt directly to a member of the Scheme, other than via the Debt Advice Provider who granted membership of the Scheme; 40
- (f) a creditor may not reduce or make an application to reduce the amount of a statutory entitlement or payment in respect of a member of the Scheme solely for the purpose of recovering a relevant debt; and
- (g) a creditor may not charge a member of the Scheme any sum by way of additional interest, fee or other charge in respect of a relevant debt other than as provided for as part of an agreed Plan. 45

- (3) Regulations may provide for circumstances and for classes of creditor where protections under this section may not apply, may apply in part or may apply under any other conditions specified in the regulations.

## 8 Scheme protections: challenge and appeal

- (1) The Secretary of State must make provision by regulations for procedures by which requests or complaints from creditors about proposals or decisions of Debt Advice Providers are received, considered and adjudicated. 5
- (2) The procedures under subsection (1) must include, but need not be limited to, provision relating to the consideration and adjudication of—
- (a) whether a specific debt should be considered relevant (see section 9), 10
  - (b) a specific provision of an individual Plan or proposed Plan,
  - (c) a decision relating to eligibility to apply to the Scheme, and
  - (d) approval or disapproval of an application for membership of the Scheme or a decision relating to the discontinuance of such membership. 15

## 9 Relevant debts

- (1) For the purpose of this Act, all debts are relevant debts except as follows—
- (a) continuing liabilities, and
  - (b) such other debts that regulations may define as not being relevant debts. 20
- (2) For the purpose of this section a continuing liability is a sum owed or payment due by the debtor, other than arrears of such a payment in respect of—
- (a) a mortgage or secured loan,
  - (b) rent,
  - (c) an insurance premium, 25
  - (d) a duty, local or general tax, or rate,
  - (e) a domestic water charge or domestic sewerage charge,
  - (f) a periodic allowance, child maintenance or child support,
  - (g) the supply of electricity, gas, broadband, or fixed line telephone services, 30
  - (h) heating oil or fuel oil,
  - (i) a hire purchase or conditional sale agreement,
  - (j) a court fine, and
  - (k) other items prescribed in regulations.

## 10 Report on the operation of the Scheme 35

- (1) Within no more than 12 months of the Scheme coming into operation, the Secretary of State must report on the operation of the Scheme including, but not limited to—
- (a) the effectiveness of the Scheme, and
  - (b) other categories of persons or households to whom it may be effective and appropriate to extend eligibility to enter the Scheme. 40
- (2) The report is to be laid before each House of Parliament.

**11 Regulations**

- (1) Regulations may make further provisions in connection with—
- (a) the process for making applications to become a member of the Scheme under this Act or any variation of a scheme in force,
  - (b) the manner in which such schemes are to operate, including conditions with which debtors applying for membership, creditors or Debt Advice Provider must comply, 5
  - (c) the circumstances in which a creditor may object to their inclusion in a Plan, and
  - (d) disapplication of requirements on creditors to serve certain notices under the Consumer Credit Act 1974 or other relevant legislation. 10
- (2) Regulations made under section 2 must be made by statutory instrument, and the instrument may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) All other regulations made under this Act must be made by statutory instrument, and the instrument is subject to annulment in pursuance of a resolution of either House of Parliament. 15

**12 Financial provision**

*There is to be paid out of money provided by Parliament –*

- (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown, and* 20
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

**13 Extent, commencement and citation**

- (1) This Act extends to England and Wales, and Northern Ireland. 25
- (2) This section and all provisions so far as they confer powers to make regulations come into force on the day after the day on which the Act receives Royal Assent.
- (3) All other sections come into force six months after the after the day on which the Act receives Royal Assent. 30
- (4) This Act may be cited as the Families with Children and Young People in Debt (Respite) Act 2017.

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