

The Debt Respite Scheme

A Bill 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.

Be 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: -

The Debt Respite Scheme

1. Debt Respite Scheme

There shall be a scheme for the provision of financial respite to be known as the "Debt Respite Scheme" (and in this Act "the Scheme") established in accordance with this Act.

2. The Debt Respite Scheme: eligibility to apply

(1) The Secretary of State must make regulations entitling a person 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, and
- (b) financial circumstances, and
- (c) previous engagement with the Scheme

to apply to enter the Scheme.

(2) The Secretary of State may by order designate:

- (a) other categories of persons 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).

(3) After no more than 12 months of the Scheme's operation, the Secretary of State must make arrangements for a report on 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

to be laid before each House of Parliament.

3. Entry into the Respite Scheme

(1) Access to the Debt Respite Scheme may be granted to a person following an application to a Debt Advice Provider

(2) For the purposes of this Act a "Debt Advice Provider" is a person or organisation—

(a) with permission under part four 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.

(3) Prior to accepting an application to the Scheme for consideration, a Debt Advice Provider must satisfy themselves that the applicant satisfies the conditions for eligibility to apply determined in regulations under section 2

(4) Prior to approving an application to, and granting an applicant membership of, the Scheme, a Debt Advice Provider must satisfy themselves that—

a. The person is unable to pay one or more of their relevant debts (as defined in Section 6)

b. That entry into the respite scheme would likely be in the best interests of the person and

c. Appropriate for the individual circumstances of the person

(5) The Debt Advice Provider may require the applicant to (a) enter a "Debt Repayment Plan", or (b) make other affordable debt repayments as a condition of access to the Debt Respite Scheme. Such a provision may be applied at the point of a person's application to the Debt Respite Scheme, or at any later point whilst the Debt Respite Scheme is in force in respect to that person.

(6) The Debt Advice Provider must make a determination of which debts are to be considered “relevant debts” (as defined in Section 8) for the purposes of inclusion in the applicant’s Debt Respite Scheme, and notify relevant creditors of this determination.

(8) The Secretary of State may make regulations containing provision for further conditions for entry into the Scheme or for how the conditions under section 3 shall be applied.

4. Statutory protections provided by the Debt Respite Scheme

(1) The protections provided in respect of a relevant debt against which a Debt Respite Scheme is in force are as follows:

- a. No creditor is to present a bankruptcy petition against this person in respect of a relevant debt
- b. No creditor is to pursue any remedy for the recovery of a relevant debt, beyond any repayments made as part of a “Debt Repayment Plan”
- c. Any existing court proceedings that relate to a relevant debt will be stayed
- d. No domestic utility creditor is to stop the supply of mains gas or mains electricity, or the supply of associated services.
- e. For the purpose of this section a domestic utility creditor is any person who provides the person with a supply of mains gas or mains electricity for the person’s domestic purposes and is a creditor under a relevant debt.
- f. No creditor may make a demand for payment of a relevant debt directly to a person
- g. No creditor will reduce the amount of a statutory entitlement or payment solely for the purpose of recovering a relevant debt
- h. No creditor may charge any sum by way of interest, fee or other charge in respect of a relevant debt.

(2) 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.

5. Length of the Debt Respite Scheme and exit from it

(1) With regards to any particular debt included within an applicant’s Debt Respite Scheme, the period of protection under the Scheme begins when the claimant’s application is both (a) accepted by a Debt Advice Provider and (b) the creditor have been notified of the determination. The Secretary of State must make regulations prescribing the circumstances under which such a notification has been made.

- (2) The period of protection is 12 months unless exceptions apply.
- (3) An extension beyond the 12 month period may apply if the claimant enters a Debt Repayment Plan. In such circumstances, the period of protection may continue until the Debt Repayment Plan ends.
- (4) The period of protection under the Debt Respite Scheme may be ended before 12 months if:
- a. As a result of a change in the claimant's circumstances, a Debt Advice Provider determines that the Debt Respite Scheme is no longer suitable to their circumstances.
 - b. The claimant fails to abide by the terms of a Debt Repayment Plan. What it means to "abide by the terms of a Debt Repayment Plan", and the process by which a determination is made that a claimant within the DRS has failed to do so, is defined in regulations.
 - c. The claimant chooses to exit the scheme.

6. A Debt Repayment Plan

- (1) For the purposes of this Act, a "Debt Repayment Plan" is a plan that meets the following conditions
- a. It must include all of the person's relevant debts
 - b. It requires the person to make payments in respect of their relevant debts, so that these debts will be paid off within a reasonable period.
 - c. It does not matter if the plan requires payments of different amounts to be made in respect of debts at different times
- (2) Regulations will determine the method by which a Debt Advice Provider must determine levels of payments made consequent to subsection 6(1).
- (3) A Debt Repayment Plan will come to an end when:
- a. all the person's relevant debts are repaid, *or*
 - b. as a result of a change in the claimant's circumstances, a Debt Advice Provider determines that the Debt Respite Scheme is no longer suitable to their circumstances. *or*
 - c. the claimant fails to abide by the terms of a Debt Repayment Plan. The meaning of "abide by the terms of a Debt Repayment Plan" , and the process by which a determination is made that a claimant receiving protections through the DRS has failed to do so, is defined in regulations,

(4) Other circumstances under which a Debt Repayment Plan can come to an end may be defined in regulations.

7. Challenging determinations on application of the Debt Respite Scheme or a Debt Repayment Plan

(1) Regulations must set out the grounds on which a creditor can apply to a Debt Advice Provider, or another agency prescribed by the Secretary of State, that:

- (a) a debt is not a relevant debt as prescribed by section 8, *or*
- (b) one or more protections under section 4 should not apply, *or*
- (c) the terms of a Debt Repayment Plan are not in accordance with this Act or any regulations made as a consequence

and the process by which such an application will be determined.

8. Relevant debts for the Debt Respite Scheme and Debt Repayment Plan

1. For the purpose of this Act, all debts are relevant debts except as follows:

- a. Continuing liabilities
- b. Such other debts that regulations may define as not being relevant debts

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
- 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, or fixed line telephone services
- h. Heating oil or fuel oil
- i. A hire purchase or conditional sale agreement
- j. A court fine

9. Wellbeing support for Debt Respite Scheme applicants

(1) A Debt Advice Provider offering advice and other services in respect of a Debt Respite Scheme must ensure that they establish and implement clear and effective

policies and procedures to identify particularly vulnerable applicants and to deal with such people appropriately.

(2) For the purpose of this section, such policies must refer to the additional vulnerabilities of applicants:

- a. in households with children under the age of 18
- b. with a disability, or in households with a disabled person
- c. who are care leavers

10. Power to make further provisions

(1) Regulations may make further provisions in connection with:

- a. The process for applications to a 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 people applying for a scheme, creditors or debt advisers must comply
- c. The circumstances in which a creditor may object to their inclusion
- d. Disapplication of requirements on creditors to serve certain notices under the Consumer Credit Act 1974 or other relevant legislation.

(2) Regulations under this Act may not be made until laid before Parliament in draft and approved by a resolution of each House.

11. 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

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

12. Extent, commencement and citation

(1) This Act extends to England, Wales and Northern Ireland only.

(2) This Act comes into force on the day after the day on which it receives Royal Assent.

(3) This Act may be cited as the Families with Children and Young People in Debt (Respite) Act 2017.