The Debt Respite Scheme

Purpose of the Bill

The purpose of the Bill is 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.

The scheme through which such respite will be provided will be known as the "*Debt Respite Scheme*" (DRS).

The Bill also places a duty on public authorities to provide access to related advice, guidance and support in those circumstances.

Extent and Territorial Application

The Bill applies to England, Wales and Northern Ireland

Commentary on provisions of the Bill

Section 2. The Debt Respite Scheme: eligibility to apply

People (referred to as "claimants") will be able to apply to enter the DRS if they are a parent with dependent children, or are a young person living independently, and where the repayment of debts is causing them financial hardship.

For the purposes of this, Section 2 establishes that the Secretary of State will make regulations which:

a. specify the circumstances under which someone would be considered "family with children" and the circumstances under which a person would be considered to be a "young person" for the purposes of being within the scope of the scheme.

b. specify the financial circumstances under which a person can apply to the scheme. (Such regulations are intended to relate to their ability to repay one or more of their debts).

In addition, the Secretary of State must also make regulations specifying the circumstances under which previous use of the scheme would prohibit reapplying.

Furthermore Section 2 establishes that within 12 months of the scheme being introduced, the Secretary of State will review the effectiveness of the scheme and consider whether other categories of claimant (such as adults without children), should be included within its scope.

Section 3. Entry into the Respite Scheme

There will be a five stage process by which an eligible claimant may apply to the DRS.

- Stage 1. An eligible claimant seeks advice from a regulated Debt Advice Provider.

- Stage 2. The Debt Advice Provider must make a determination of the claimant's eligibility to apply (in accordance with regulations made under section 2.)

- Stage 3. Before allowing entry to the scheme, the Debt Advice Provider must also make a determination that the claimant is unable to pay one or more of their debts, that entry into the scheme would be in the best interests of the individual, and that it is appropriate in their circumstances.

- Stage 4. If the Debt Advice Provider decides that entry to the DRS is appropriate, they must make a determination as to which debts should be considered "relevant" debts, in accordance with Section 8 below.

- Stage 5. If the Debt Advice Provider decides that entry into the scheme is appropriate, and that one or more debts should be considered relevant debts, then they may also make a determination as to whether the claimant should also be required to enter a Debt Repayment Plan (as described in Section 6), as a condition of entry into the DRS.

Where one or more debts are considered a relevant debt for the purposes of the DRS, the Debt Advice Provider must notify relevant creditors of the determination. No protections under the Debt Respite Scheme can be offered against a relevant debt, until the creditor has been notified of this determination.

Section 4. Statutory protections provided by the Debt Respite Scheme

Broadly, the Debt Respite Scheme offers four main categories of protection:

1. Protections from unaffordable debt repayments - Beyond those repayments set out in a Debt Repayment Plan, this section ensures that claimants within the scheme are not approached by their creditors for any further repayments of relevant debts. In addition, claimants are protected from having payments of benefits or Tax Credits reduced in order to recover debts.

2. Protections from loss of access to basic utilities as a result of recovery of the debt - This includes preventing scheme participants from being cut off from the supply of gas or electricity to their home.

3. Protections from additional costs or charges being incurred on account of the debt - No creditor may charge any sum by way of interest, fee or other charge in respect of a debt included in the scheme.

4. Protection from other communication or collection activities from creditors - Creditors are prohibited from making direct approaches to a debtor for the collection of a debt included in the DRS. In addition, any existing court proceedings related to recovery of a debt should be postponed for the period of the individual being part of the DRS. No creditor should present a petition for bankruptcy against the individual in the scheme.

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

The standard length of the DRS will be 12 months. However, the scheme may be extended beyond this length if a “Debt Repayment Plan” (as described in Section 6) is in place, and in such circumstances may continue until the Debt Repayment Plan comes to an end.

In addition, the period of protection under the DRS may be less than 12 months if:

1. a Debt Advice Provider determines that the DRS is no longer suitable to the claimant’s circumstances, or
2. the claimant fails to abide by the terms of a Debt Repayment Plan (the process by which this will be determined will be defined in regulations) or
3. the claimant chooses to exit the scheme.

Section 6. A Debt Repayment Plan

Section 3 specifies that a Debt Advice Provider may require an applicant to the scheme to enter a Debt Repayment Plan as a condition of entry to the DRS.

Such a Debt Repayment Plan (DRP) would include all of the debts for which the claimant receives protections through the DRS, and requires payments to be made against these debts. A Debt Repayment Plan should only be established in circumstances where the claimant would be able to repay their debts within a reasonable period of time.

The Debt Advice Provider must determine suitable levels of repayment under a DRS, and regulations will determine how such determinations are made. It is expected that affordability of payments would be determined in line with the standardised budgeting approach currently provided through the “Common Financial Statement” managed by the Money Advice Trust.

A Debt Repayment Plan can come to an end when the claimant has paid off their relevant debts, when a Debt Advice Provider considers that the claimant’s circumstances have changed so that it is no longer suitable, or where the claimant fails to abide by the terms of the plan.

A Debt Repayment Plan does not need to be applied in all cases for applicants to the DRS, and in some cases would not be appropriate. However, (as per Section 5), where a Debt Repayment Plan is not in place, the protections afforded by the scheme cannot be extended beyond the initial 12 month protection period.

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

The Debt Respite Scheme provides provisions which enable Debt Advice Providers to provide protections for people in problem debt. This section ensures that creditors are able to challenge the determinations made by Debt Advice Providers.

Such challenges may be made on the grounds that one or more debts included are not “relevant debts”, that the terms of a Debt Repayment Plan are not made in accordance with provisions in this Act, or that there is another reason why one or more protections provided under Section 4 should not be granted.

Regulations will prescribe the process under which such challenges can be made.

Processes already exist through which claimants could challenge a decision made by a Debt Advice Provider in circumstances where they disagree. Debt Advice Providers regulated by the Financial Conduct Authority are subject to the FCA’s Dispute Handling Rules, which provide people with recourse to the independent Financial Ombudsman Service if they are not satisfied with the service they receive from their Debt Advice Provider.

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

This section describes debts against which protections may be provided under the Debt Respite Scheme, and which may be included within a Debt Repayment Plan.

Broadly, unless they are defined otherwise, all debts may be included. Continuing liabilities would be excluded from the scope of the DRS, though arrears on these liabilities would not (so, for example, mortgage payments would not be included, though mortgage arrears would).

Section 9. Wellbeing support for Debt Respite Scheme applicants

This section ensures that Debt Advice Providers offering services related to the DRS have procedures in place to identify and appropriately support vulnerable applicants to the scheme. The Section requires such services to recognise the additional vulnerabilities faced by families with children under18, those with disabilities, and care leavers, should they fall into problem debt.

Appropriate support may (for example) include signposting to appropriate health or social care services.