



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 5

#### DEBT MANAGEMENT AND RELIEF

PROSPECTIVE

#### CHAPTER 4

##### DEBT MANAGEMENT SCHEMES

###### *Introductory*

#### **109 Debt management schemes**

- (1) A debt management scheme is a scheme that meets the conditions in this section.
- (2) The scheme must be open to some or all non-business debtors.
- (3) A scheme is open to a non-business debtor if it allows him to make a request to the scheme operator for a debt repayment plan to be arranged for him.
- (4) The scheme must provide that, if such a request is made—
  - (a) a decision must be made about whether a debt repayment plan is to be arranged for the non-business debtor, and
  - (b) such a plan must be arranged (if that is the decision made).
- (5) The scheme must be operated by a body of persons (whether a body corporate or not).

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## **110 Debt repayment plans**

- (1) A debt repayment plan is a plan that meets the conditions in this section.
- (2) The plan must specify all of the debtor's qualifying debts.
- (3) The plan must require the debtor to make payments in respect of each of the specified debts.
- (4) It does not matter if—
  - (a) the plan requires payments of different amounts to be made in respect of a specified debt at different times;
  - (b) the payments that the plan requires to be made in respect of a specified debt would, if all made, repay the debt only in part.

### *Approval of schemes*

## **111 Approval by supervising authority**

- (1) The supervising authority may approve one or more debt management schemes.
- (2) Regulations may make provision about any or all of the following—
  - (a) conditions that must be met before the supervising authority may approve a debt management scheme;
  - (b) considerations that the supervising authority must, or must not, take into account in deciding whether to approve a debt management scheme.
- (3) Regulations under this section may, in particular, make provision about conditions or considerations that relate to any matter listed in Schedule 21.
- (4) The supervising authority may approve a debt management scheme whether a body is—
  - (a) operating the scheme at the time of the approval, or
  - (b) proposing to operate the scheme from a time in the future.

## **112 Applications for approval**

- (1) Regulations may specify a procedure for making an application for approval of a debt management scheme.
- (2) Regulations under this section may, in particular, specify a procedure that requires any or all of the following—
  - (a) an application to be made in a particular form;
  - (b) information to be supplied in support of an application;
  - (c) a fee to be paid in respect of an application.

## **113 Terms of approval**

- (1) The approval of a debt management scheme has effect subject to any relevant terms.
- (2) Relevant terms are—
  - (a) the terms (if any) specified in regulations that relate to the approval, and
  - (b) the terms (if any) that the supervising authority includes in the approval.

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- (3) Relevant terms may, in particular, deal with all or any of the following—
  - (a) the start of the approval;
  - (b) the expiry of the approval;
  - (c) the termination of the approval, including termination because of the breach of some other term.
- (4) Relevant terms may, in particular, impose requirements on the scheme operator.
- (5) Relevant terms may, in particular, relate to any matter listed in Schedule 21.
- (6) Regulations may make provision about terms that the supervising authority must, or must not, include in an approval.

*Effect of plans etc.*

#### **114 Discharge from specified debts**

- (1) This section applies if—
  - (a) a debt repayment plan is arranged for a non-business debtor in accordance with an approved scheme, and
  - (b) the plan comes into effect.
- (2) The debtor is discharged from the debts that are specified in the plan.
- (3) The discharge from a particular specified debt takes effect at the time when all the required payments have been made.
- (4) The required payments are the payments in respect of the debt that are required by the provision included in the plan in accordance with section 110(3).

#### **115 Presentation of bankruptcy petition**

- (1) This section applies during the currency of a debt repayment plan arranged in accordance with an approved scheme.
- (2) No qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless—
  - (a) regulations provide otherwise, or
  - (b) the creditor has the permission of [<sup>F1</sup>the county court].
- (3) [<sup>F1</sup>The county court] may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.
- (4) The reference to the currency of a debt repayment plan is a reference to the period which—
  - (a) begins when the plan first has effect, and
  - (b) ends when the plan ceases to have effect.

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#### Textual Amendments

- F1** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

### 116 Remedies other than bankruptcy

- (1) This section applies in relation to a non-business debtor during a period of protection.
- (2) No qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt, unless—
  - (a) regulations provide otherwise, or
  - (b) the creditor has the permission of [<sup>F1</sup>the county court].
- (3) [<sup>F1</sup>The county court] may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.
- (4) This section does not have any effect in relation to bankruptcy proceedings.

#### Textual Amendments

- F1** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

### 117 Charging of interest etc.

- (1) This section applies in relation to a non-business debtor during a period of protection.
- (2) No qualifying creditor is to charge any sum by way of interest, fee or other charge in respect of a qualifying debt, unless—
  - (a) regulations provide otherwise, or
  - (b) the creditor has the permission of [<sup>F1</sup>the county court].
- (3) [<sup>F1</sup>The county court] may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

#### Textual Amendments

- F1** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

### 118 Stopping supplies of gas or electricity

- (1) This section applies in relation to a non-business debtor during a period of protection.
- (2) In relation to the debtor, a domestic utility creditor is any person who—
  - (a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and

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- (b) is a creditor under a qualifying debt that relates to the provision of that supply.
- (3) No domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (7).
- (4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the start of the period of protection.
- (5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—
- (a) that supply, or
  - (b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.
- (6) The third case is where regulations allow the supply to be stopped.
- (7) The fourth case is where [<sup>F1</sup>the county court] gives permission to stop a supply.
- (8) [<sup>F1</sup>The county court] may give permission for the purposes of subsection (7) subject to such conditions as it thinks fit.
- (9) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986 (c. 44).
- (10) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989 (c. 29).

#### Textual Amendments

- F1** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

### 119 Existing county court proceedings to be stayed

- (1) This section applies if these conditions are met—
- (a) a debt repayment plan is arranged for a non-business debtor in accordance with an approved scheme;
  - (b) proceedings in [<sup>F2</sup>the county court] (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;
  - (c) by virtue of section 116, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;
  - (d) the county court receives notice of the debt repayment plan.
- (2) The county court must stay the proceedings.
- (3) The court may allow costs already incurred by the creditor.
- (4) Subsection (5) applies if—
- (a) the court allows such costs, and
  - (b) the qualifying debt is a specified debt.
- (5) The operator of the approved scheme may, if requested to do so by—

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- (a) the non-business debtor, or
  - (b) the creditor under the qualifying debt,
- add the costs to the amount specified in the plan in respect of the debt.

- (6) But the operator may not add the costs under subsection (5) if, under the terms of the approved scheme, the operator is under a duty to terminate the plan.

#### Textual Amendments

- F2** Words in s. 119(1)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### 120 Registration of plans

- (1) Regulations may make provision about the registration of either or both of the following—
- (a) any request made to the operator of an approved scheme for a debt repayment plan to be arranged in accordance with the scheme;
  - (b) any debt repayment plan arranged for a non-business debtor in accordance with an approved scheme.
- (2) In subsection (1) “registration” means registration in the register maintained under section 98 of the Courts Act 2003 (c. 39) (the register of judgments and orders etc).
- (3) Regulations under this section may amend section 98 of the 2003 Act.

### 121 Other debt management arrangements in force

- (1) This section applies if—
- (a) a debt repayment plan is arranged for a debtor in accordance with an approved scheme, and
  - (b) immediately before the plan is arranged, other debt management arrangements are in force in respect of the debtor.
- (2) The plan is not to come into effect unless the other debt management arrangements cease to be in force.
- (3) Any provision (whether in the plan or elsewhere) about when the plan is to come into effect is subject to subsection (2).
- (4) If the operator of the approved scheme is aware of the other debt management arrangements, the operator must give the relevant authority notice that the plan has been arranged.
- (5) In a case where the operator is aware of other debt management arrangements at the time the plan is arranged, it must give the notice as soon as practicable after the plan is arranged.
- (6) In a case where the operator becomes aware of those arrangements after the plan is arranged, it must give the notice as soon as practicable after becoming aware of them.
- (7) “Other debt management arrangements” means any of the following—

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- (a) an administration order under Part 6 of the County Courts Act 1984 (c. 28);
  - (b) an enforcement restriction order under Part 6A of the County Courts Act 1984;
  - (c) a debt relief order under Part 7A of the Insolvency Act 1986 (c. 45).
- (8) “The relevant authority” means—
- [<sup>F3</sup>(aa) in relation to an administration order or an enforcement restriction order: the county court;]
  - (c) in relation to a debt relief order: the official receiver.
- (9) For the purposes of this section a debt relief order is “in force” if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

#### Textual Amendments

- F3** S. 121(8)(aa) substituted for (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 136\(a\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### Appeals

#### 122 Right of appeal

- (1) This section applies if a debt repayment plan is arranged for a debtor in accordance with an approved scheme.
- (2) An affected creditor may appeal to [<sup>F4</sup>the county court] against any of the following—
- (a) the fact that the plan has been arranged;
  - (b) the fact that a debt owed to the affected creditor has been specified in the plan;
  - (c) the terms of the plan (including any provision included in the plan in accordance with section 110(3)).
- (3) Subsection (2)(c) does not allow an affected creditor to appeal against the fact that a debt owed to any other creditor has been specified in the plan.
- (4) In this section “affected creditor” means the creditor under any debt which is specified in the plan.

#### Textual Amendments

- F4** Words in s. 122(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### 123 Dealing with appeals

- (1) This section applies if an appeal is made to [<sup>F5</sup>the county court] under section 122.
- (2) The county court may determine the appeal in any way that it thinks fit.

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- (3) The county court may make such orders as may be necessary to give effect to the determination of the appeal.
- (4) The county court may, in particular, order the scheme operator to do any of the following—
  - (a) to reconsider the decision to arrange the plan;
  - (b) to reconsider any decision about the terms of the plan;
  - (c) to modify the debt repayment plan;
  - (d) to revoke the debt repayment plan.
- (5) The county court may make such interim provision as it thinks fit in relation to the period before the appeal is determined.

<sup>F6</sup>(6) .....

#### **Textual Amendments**

- F5** Words in s. 123(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F6** S. 123(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 136\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

### *Approved schemes: charging*

#### **124 Charges by operator of approved scheme**

- (1) The operator of an approved scheme may recover its costs by charging debtors or affected creditors (or both).
- (2) In this section—
 

“costs” means the costs which the operator incurs, taking one year with another, in connection with the approved scheme, so far as those costs are reasonable;

“debtors” means—

  - (a) debtors who make requests for debt repayment plans to be arranged in accordance with the approved scheme, and
  - (b) debtors for whom debt repayment plans are arranged in accordance with the approved scheme.

### *Termination of approval*

#### **125 Procedure for termination**

- (1) Regulations may specify a procedure for terminating the approval of a debt management scheme.
- (2) Regulations under this section may, in particular, specify a procedure that requires any or all of the following—



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- (a) notice of, or the reasons for, an intended termination to be given (whether to the supervising authority, the scheme operator, the Lord Chancellor or any other person);
- (b) conditions to be met before a termination takes effect;
- (c) a particular period of time to elapse before a termination takes effect.

## **126 Terminating an approval**

The approval of a debt management scheme may be terminated only if the termination is in accordance with all of the following (so far as they are relevant)—

- (a) any terms to which the approval is subject by virtue of section 113;
- (b) any provision made in regulations under section 125;
- (c) any other provision made in other regulations under this Chapter.

## **127 Alternatives to termination**

- (1) Regulations may make provision to allow the supervising authority to deal with a termination case other than by terminating the approval.
- (2) A termination case is a case in which the supervising authority would be entitled to terminate the approval of a debt management scheme.
- (3) Regulations under this section may, in particular, make provision to allow the supervising authority to transfer the operation of the scheme—
  - (a) to itself, or
  - (b) to any other body.

### *Effects of end of approval*

## **128 Effects of end of approval**

- (1) Regulations may make provision about the effects if the approval of a debt management scheme comes to an end.
- (2) Regulations under this section may, in particular, make provision about the treatment of debt repayment plans arranged for non-business debtors before the scheme came to an end.
- (3) That includes provision to treat a plan—
  - (a) as though the approval had not come to an end, or
  - (b) as though the plan had been made in accordance with a different approved scheme.
- (4) Regulations under this section may, in particular, make provision about cases where, at the time the scheme comes to an end, the scheme operator is in breach of a relevant obligation.
- (5) That includes provision to ensure that the operator is not released from the relevant obligation by virtue of the termination.
- (6) In subsections (4) and (5) “relevant obligation” means any obligation (including a requirement or condition) however arising, that relates to—

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- (a) the scheme in question (including its operation),
- (b) the approval of that scheme, or
- (c) the termination of that approval.

*The supervising authority*

**129 The supervising authority**

- (1) The supervising authority is—
  - (a) the Lord Chancellor, or
  - (b) any person that the Lord Chancellor has authorised to approve debt management schemes under section 111.
- (2) Subsections (3) and (4) apply in any case where an authorisation under subsection (1) (b) starts or ends.
- (3) The start or end of the authorisation does not affect the validity of an approval that is in force at the relevant time.
- (4) The new supervising authority may exercise all of its functions in relation to an approval that is in force at the relevant time as though it had given the approval itself.
- (5) In this section—
  - “approval” means an approval of a debt management scheme given under section 111;
  - “relevant time” means the time when an authorisation starts or ends.

*Various*

**130 Regulations**

- (1) It is for the Lord Chancellor to make regulations.
- (2) The power to make regulations is exercisable by statutory instrument.
- (3) A statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) But subsection (3) does not apply in the case of a statutory instrument that contains either or both of the following—
  - (a) the first regulations under a particular section of this Chapter;
  - (b) any regulations under section 118(6);
  - (c) any regulations under section 120 that amend section 98 of the Courts Act 2003 (c. 39);
  - (d) any regulations that amend section 122 or 123.
- (5) In such a case the statutory 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.
- (6) Regulations may make different provision in relation to different cases.
- (7) Regulations may make any or all of the following provision if the Lord Chancellor thinks it is necessary or expedient—

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- (a) supplementary, incidental or consequential provision;
  - (b) transitory, transitional or saving provision.
- (8) Provision under subsection (7) may, in particular, amend section 122 or 123 (including by making provision for further grounds of appeal).
- (9) In this section (except in subsection (4)(a) to (c)) “regulations” means regulations under any provision of this Chapter.

### 131 Main definitions

- (1) In this Chapter—
- “affected creditor” has the meaning given by section 122;
  - “approved scheme” means a debt management scheme that is approved under section 111;
  - “debt management scheme” has the meaning given by section 109;
  - “debt repayment plan” has the meaning given by section 110;
  - “non-business debtor” means any individual who—
    - (a) is a debtor under one or more qualifying debts, but
    - (b) is not a debtor under any business debts;
  - “period of protection” has the meaning given by section 133;
  - “qualifying creditor” means a creditor under a qualifying debt;
  - “scheme operator” means the body that operates a debt management scheme;
  - “specified debt” means a debt specified in a debt repayment plan;
  - “supervising authority” has the meaning given by section 129.

<sup>F7</sup>(2) .....

#### Textual Amendments

**F7** S. 131(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 136\(b\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

### 132 Expressions relating to debts

- (1) All debts are qualifying debts, except the following—
- (a) any debt secured against an asset;
  - (b) in relation to a debt repayment plan which has been requested or arranged, any debt which could not, by virtue of the terms of the debt management scheme, be specified in the plan.
- (2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.

### 133 Periods of protection

- (1) A “period of protection”, in relation to a non-business debtor, is a period which begins and ends as specified in this section.

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- (2) The period begins if, and when, the debtor makes a request to the operator of an approved scheme for a debt repayment plan to be arranged in accordance with the scheme.
- (3) The period ends as follows—
  - (a) if a debt repayment plan is not arranged in consequence of the request: when the decision is made not to arrange the plan;
  - (b) if a debt repayment plan is arranged in consequence of the request: when that plan ceases to have effect.
- (4) But if other debt management arrangements are in force in relation to debtor immediately before he makes the request, the period does not begin unless, and until, a debt repayment plan—
  - (a) is arranged in consequence of the request, and
  - (b) comes into effect in accordance with section 121(2).
- (5) In this section the reference to other debt management arrangements which are in force has the same meaning as such references in section 121.

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