

---

# Debt Relief (Developing Countries) Bill

---

[ORIGINAL DRAFT]

## CONTENTS

### *Introduction*

- 1 Meaning of “qualifying debt” etc
- 2 Qualifying debt and relevant debt: further definitions
- 3 Designation of debt treatment

### *Relief of debts etc*

- 4 Amount recoverable in respect of claim for qualifying debt etc
- 5 Meaning of “the relevant proportion”
- 6 Judgments for qualifying debts etc
- 7 Turnover

### *Stay on debt proceedings etc*

- 8 Debt service suspension
- 9 Comparability of treatment
- 10 Stay of legal proceedings
- 11 Moratorium on other legal process

### *Supplementary and general*

- 12 Exception for overriding international obligations
- 13 Saving
- 14 [Commencement, extent and short title]

[ORIGINAL DRAFT]

A

**B I L L**

TO

Make provision for or in connection with the relief of debts of certain developing countries.

**B**E IT ENACTED by the King’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:—

*Introduction*

[1] **Meaning of “qualifying debt” etc**

In this [Act]—

5

(1) An “arbitral award” means an award made (whether before or after commencement) on a claim in an arbitration (conducted under any law).

(2) The “Common Framework” means for the Common Framework for Debt Treatments beyond the DSSI of the Group of 20 announced on 13 November 2020 (as amended or replaced from time to time).

10

(3) “Country” includes a territory or municipality (or the government of the country or any part of the country or any department of any such government).

(4) “Commencement” means the commencement of this Act.

(5) “A “debt treatment” means—

15

(a) a debt treatment which has been agreed under the Common Framework, or

(b) any other international debt relief arrangement designated by the Secretary of State under section [3] (*Designation of debt treatment*).

(6) A debt treatment is regarded as agreed in respect of a country if it is so regarded for the purposes of the respective debt treatment.

20

(7) “Foreign judgment” means a judgment (however described) of a court or tribunal of a jurisdiction outside the United Kingdom, and includes anything (other than an arbitral award) which is enforceable as if it were such a judgment.

(8) “Judgment” includes an order (and references to the giving of a judgment are to be read accordingly), and

- (9) “Legal proceedings” means any legal process (by way of claim or counterclaim), execution, enforcement, distress or diligence, whether before a Court or an arbitration tribunal having its seat in the United Kingdom.
- (b) in respect of which a debt treatment has not been agreed.
- 5 (10) “Public debtor” means—
- (a) a country,
- (b) the central bank or other monetary authority of the country, or
- (c) a body corporate controlled (directly or indirectly) by anything within paragraph (a) or (b).
- 10 (11) “Qualifying public debtor” means a public debtor to which a debt treatment applies.
- (12) “Qualifying debt” means relevant debt of a public debtor which—
- (a) is subject to debt treatment, and
- (b) was incurred—
- (i) before the beginning of the relevant period in respect of the country,
- 15 (ii) after the beginning of the relevant period with respect to that country provided that (and insofar as) that debt replaces a debt incurred before the beginning of the relevant period.
- (13) “Relevant debt” means a debt incurred through an arm’s length arrangement that is a public debt or publicly guaranteed.
- 20 (14) “Relevant claim” means—
- (a) a claim for, or relating to, a qualifying debt, or
- (b) a claim under an agreement compromising a claim under paragraph (a).
- (15) For the purposes of this [Act] “relevant period” means—
- (a) in respect of a country to which a debt treatment applies, the date beginning on the day when that debt treatment is agreed and ending on such other date specified as the end date of the debt treatment by the G20 and Paris Club from time to time,
- 25 (b) in respect of a debt treatment designated by the Secretary of State under section 3 (*Designation of debt treatment*), the period beginning with the effective designation date and ending on the date on which the designation ceases to have effect.
- 30

[2] **Qualifying debt and relevant debt: further definitions**

- (1) The expressions used in section [1](13) and [1](14) have the meaning given below.
- (2) “Debt” includes—
- 35 (a) a liability that falls to be discharged otherwise than by the making of a payment, and

- (b) an obligation to repurchase property that arises under an agreement for the sale and repurchase of property (whether or not the same property).
- (3) “Debt” does not include—
- (a) a liability that falls to be discharged in less than a year from the time it was incurred (“a short-term debt”) unless the short-term debt is within subsection (4), or
- (b) a liability incurred after the beginning of the relevant period that refinances any liability that was (at the time of the replacement) within paragraph (a).
- (4) A short-term debt is within this subsection if it ought to have been discharged more than a year before the beginning of the relevant period.
- (5) A debt is a “public debt” of a country if it was incurred by a public debtor.
- (6) A debt is a “publicly guaranteed” debt of a country if—
- (a) it is guaranteed or the creditor benefits from an indemnity for losses arising with respect to the debt, or both,
- (b) the guarantee or indemnity (as the case may be) was entered into before the beginning of the relevant period, and
- (c) the debt would be a public debt of the country if it had been incurred by the guarantor or indemnifying party.
- (7) If the conditions in subsection (6)(a) to (c) are met as regards part of a debt, that part is regarded as a public guaranteed debt of the country concerned.

**[3] Designation of debt treatment**

- (1) The Secretary of State may—
- (a) designate that a debt relief arrangement (other than one decided under the Common Framework) is a debt treatment for the purposes of this [Act], and;
- (b) amend any of the criteria stated in Section [3](4) below in any such designation.
- (2) The Secretary of State may designate that a debt relief arrangement is a debt treatment only if the debtor country party to that arrangement (in this section “the debtor country”):
- (a) has made a formal request to the Secretary of State that the arrangement be designated under this [Act], and
- (b) at the time of making the formal request—
- (i) is eligible to access resources of the International Development Association of the World Bank Group, or
- (ii) benefits from or has made a request for financing under any concessional facility of the IMF.
- (3) If the Secretary of State decides to make or amend a designation under this section, the Secretary of State must—

- (a) notify the debtor country before the date on which the designation takes effect (“the effective designation date”), and
- (b) publish notice of the designation before the effective designation date.
- (4) The notice of a designation under this section must state—
- 5 (a) the name of the debt treatment,
- (b) the name of the debtor country,
- (c) the effective designation date,
- (d) the date on which the designation ceases to have effect, and
- 10 (e) where applicable, any internationally recognised “comparability of debt treatment” criteria applicable for the purposes of the debt treatment.

*Relief of debts etc*

**[4] Amount recoverable in respect of claim for qualifying debt etc**

- (1) The amount recoverable by a party in respect of—
- (a) a qualifying debt, or
- 15 (b) any cause of action relating to a qualifying debt,
- is no more in aggregate total than the amount the party would have recovered or expected to recover had it accepted an offer by the debtor on comparable debt treatment terms (as defined in section [5] (*Meaning of “comparable debt treatment terms”*)).
- 20 (2) Subsection (1) does not apply in relation to an agreement (a “compromise agreement”) that compromises—
- (a) a claim for a qualifying debt, or
- (b) a claim in respect of a cause of action relating to a qualifying debt,
- 25 provided always that the amount recoverable under a compromise agreement is limited to the amount that would be recoverable in respect of the claim if the agreement had not been made (and subsection (1) applied to the claim).
- (3) Subsection (1) does not apply where an agreement that is not a compromise agreement (a “refinancing agreement”) has been made—
- 30 (a) that changes the terms for repayment of a debt (“the rescheduled debt”) in such a way as to reduce its net present value, or
- (b) by virtue of which a debt (“the original debt”) is replaced by a debt (“the new debt”) the net present value of which is less than the net present value of the original debt,
- 35 provided always that the amount recoverable in respect of the rescheduled debt or the new debt is limited to the amount that would be recoverable in respect of the debt if that debt had not been rescheduled or if the refinancing agreement had not been made as the case may be (and subsection (1) applied to that debt).

- (4) References in this section to the amount recoverable include the amount recoverable on the enforcement of any security.
- (5) This section applies even if the law applicable to the qualifying debt, or to any compromise agreement, refinancing agreement or security, is the law of a jurisdiction outside the United Kingdom.

**[5] Meaning of “comparable debt treatment terms”**

For the purposes of this [Act] an offer is made on “comparable debt treatment terms” if any variation of terms to be made under the offer may be reasonably considered to be at least comparable to any variation that would have been applied under the then current debt treatment of the qualifying public debtor assuming the relevant debt is qualifying debt, having regard to—

- (a) any comparability of treatment criteria stated as applicable to the current debt treatment under section [3](4)(e) (*Designation of Debt Treatment*), or
- (b) in the absence of the criteria in (a), any variation of either—
- (i) the net present value of payments,
- (ii) nominal debt service,
- (iii) the term of the restructured debt, or
- (iv) any combination of (i)-(iii) as appropriate.

**[6] Judgments for qualifying debts etc**

- (1) This section applies to—
- (a) a judgment on a relevant claim given by a court in the United Kingdom before the relevant period,
- (b) a foreign judgment given (whether before or during the relevant period) on a relevant claim, and
- (c) an award made (whether before or during the relevant period) on a relevant claim in an arbitration (conducted under any law).
- (2) The amount of the judgment or award is to be treated as equal to the amount it would be if—
- (i) the court, tribunal or arbitrator had applied, or
- (ii) the relevant claim had not been compromised and the court, tribunal or arbitrator had applied
- section 4 (*Amount recoverable in respect of claim for qualifying debt etc*) in relation to the relevant claim.
- (3) Subsection (2) does not apply in relation to a claim if the effect of it so applying would be to increase the amount of the judgment or award.

**[7] Turnover**

- (1) If a creditor receives—

- (a) a payment or distribution in respect of any qualifying debt from a qualifying public debtor or any other source in excess of the relevant proportion recoverable by it under this [Act], or
- 5 (b) the proceeds of any enforcement of a security interest or any guarantee or other assurance against financial loss provided by the qualifying public debtor for any qualifying debt in excess of the relevant proportion recoverable by it under this [Act],
- that creditor will:
- 10 (i) hold the excess of such payment, distribution or proceeds over the relevant proportion recoverable by it under this [Act] on trust for the qualifying public debtor, and
- (ii) immediately notify the public debtor of such receipt.
- (2) A creditor must pay to the qualifying public debtor on written demand the amount of any such payment, distribution or proceeds received by it in excess of the relevant proportion recoverable by it under this [Act] or, as the case may be, an amount equal to the excess over the relevant proportion recoverable by it under this [Act] of the qualifying debt so discharged, in each case less any third party costs and expenses (if any) reasonably incurred by it in recovering the amount.
- 15 (3) Nothing in this [Act] shall restrict the ability of any creditor to:
- 20 (a) arrange with any person other than that public debtor any assurance against loss in respect of, or reduction of its credit exposure to, that public debtor (including assurance by way of credit based derivative or sub-participation), or
- (b) make any assignment or transfer of the qualifying debt,
- 25 and that creditor shall not be obliged to account to the qualifying public debtor for any sum received by it as a result of that action.
- (4) If, for any reason, any of the trusts expressed to be created in this section should fail or be unenforceable, the affected creditor will promptly pay or distribute an amount equal to that receipt or recovery to the qualifying public debtor.
- 30

*Stay on debt proceedings*

**[8] Debt service suspension**

A public debtor may make an application under section 10 (*Stay of legal proceedings*) with respect to a claim, foreign judgment or arbitral award if—

- 35 (a) the claim, foreign judgment or arbitral award is for or in respect of any qualifying debt (or part thereof),
- (b) the public debtor—
- (i) has made a formal application for debt treatment, or

(ii) benefits from official debt service suspension schemes under, the Paris Club, the International Monetary Fund and the World Bank, or any replacement or amendment thereof, and

(c) where the public debtor has made a formal application for debt treatment, the debt treatment has not been agreed with respect to that public debtor.

**[9] Conditions for grant of stay**

(1) A public debtor which is a qualifying public debtor may make an application under section 10 (*Stay of legal proceedings*) with respect to a claim, foreign judgment or arbitral award if—

(a) the claim, foreign judgment or arbitral award is for, or relates to relevant debt of a qualifying public debtor which is not subject to a debt treatment of that qualifying public debtor,

(b) legal proceedings are brought in respect of that claim, foreign judgment or arbitral award,

(c) the qualifying public debtor, after its debt treatment has been agreed but before the relevant time, has made an offer to the creditor of that relevant debt to compromise the legal proceedings on comparable debt treatment terms (with the meaning of section [5] (*Meaning of comparable debt treatment terms*)), and

(d) the creditor has no genuine economic interest in pursuing the legal proceedings in respect of the claim, foreign judgment or arbitral award.

(2) For the purposes of this section “relevant time” means—

(a) the time when a court first gives judgment on the claim,

(b) the time when the foreign judgment or arbitral award is registered, or (as the case may be)

(c) the time when permission is given to enforce the arbitral award in the same manner as a judgment of the court.

**[10] Stay of legal proceedings**

(1) A public debtor (whether qualifying or otherwise) which meets—

(a) the conditions under section 8 (*Debt service suspension*), or

(b) the conditions under section 9 (*Conditions for grant of stay*),

may (upon notice to the other parties to the proceedings) apply to the court or tribunal before which the proceedings have been brought to stay the proceedings so far as they concern that relevant debt or the enforcement or execution of any judgment or award (in whatever jurisdiction such judgment or award may have been made) relating to it.

(2) An application under subsection (1) may not be made by a public debtor before taking the appropriate procedural step (if any) to acknowledge the proceedings against it, nor after the public debtor has taken any further step in those proceedings after the relevant time to answer the substantive claim.



- (3) On a valid application under subsection (1) the court shall grant a stay for a period not ending earlier than—
- (i) in respect of a public debtor meeting the conditions of section [8], the day on which debt treatment is agreed with respect to that public debtor, or
- 5 (ii) in respect of a qualifying public debtor meeting the conditions of section [9], the last day of the relevant period applicable to the qualifying public debtor.

**[11] Moratorium on other legal process**

- (1) This section applies to any legal proceedings and creditor subject to a stay under section [10] benefitting public debtor (qualifying or otherwise, as the case may be).
- 10 (2) No step may be taken to enforce security over the public debtor’s property except—
- (a) with the consent of the public debtor, or
- (b) with the permission of the court.
- (3) No step may be taken to repossess goods in the public debtor’s possession under a hire-purchase agreement except—
- 15 (a) with the consent of the public debtor, or
- (b) with the permission of the court.
- (4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the public debtor except—
- (a) with the consent of the public debtor, or
- 20 (b) with the permission of the court.
- (5) In Scotland, a landlord may not exercise a right of irritancy in relation to premises let to the public debtor except—
- (a) with the consent of the public debtor, or
- (b) with the permission of the court.
- 25 (6) The court may only grant leave under this section if so doing is unlikely to impede in any way the achievement of the purpose for which—
- (a) with respect to a public debtor meeting the conditions of section [8] (*Debt Suspension*), debt suspension has been granted,
- 30 (b) with respect to a qualifying debtor meeting the conditions of section [9] (*Comparability of Treatment*), debt treatment has been granted or (as the case may be) designated under this [Act].
- (7) In this section “landlord” includes a person to whom rent is payable.

*Supplementary and general*

**[12] Exception for overriding international obligations**

- 35 (1) Nothing in this [Act] applies to a foreign judgment or an arbitral award of a kind required by an international obligation of the United Kingdom, to be enforced in full

even in cases where such enforcement is contrary to the public policy of the United Kingdom.

- 5 (2) In particular, this [Act] does not apply to an award to which section 1 of the Arbitration (International Investment Disputes) Act 1966 applies (awards made under the Convention on the Settlement of Investment Disputes between States and Nationals of other States).

**[13] Saving**

- 10 (1) Nothing in this Act enables a person to recover anything paid in (total or partial) satisfaction of any liability (whether arising under an agreement, judgment, order, award or otherwise).
- (2) Nothing in this Act deprives a public debtor of any defence it may have to any claim or enforcement proceeding relating to relevant debt.

**[14] [Commencement, extent and short title**

- 15 (1) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (2) This Act extends to each part of the United Kingdom.
- (3) This Act may be cited as the Debt Relief (Developing Countries) Act 20[XX].]

*EXPLANATORY MEMORANDUM*

[DATE]

**INTRODUCTION**

1. This memorandum needs to be read in conjunction with the Debt Relief (Developing Countries) Bill [20XX]. They are not, and are not meant to be, a comprehensive description of the proposed legislation. So, where a section or part of a section does not seem to require any explanation or comment, none is given.

**SUMMARY AND BACKGROUND**

2. The G20's Common Framework for Debt Treatments beyond the DSSI is an agreement of the G20 and Paris Club countries to coordinate and cooperate on debt treatments for up to 73 low-income countries (LICs) that were eligible for the Debt Service Suspension Initiative (DSSI). The proposed legislation would support the Common Framework by replicating (as appropriate) the now out-of-date Debt Relief (Developing Countries) Act 2010, which supported the Heavily Indebted Poor Countries Initiative ("HIPCI"),
3. The Heavily Indebted Poor Countries Initiative ("HIPCI") was an international initiative begun in 1996 to provide debt relief to heavily indebted low-income countries ("LICs"). Under HIPCI, the International Monetary Fund ("the IMF") and World Bank calculated the proportionate reduction required in the country's debts in order to return them to 150% of the country's annual exports, which is considered to be a sustainable level. All creditors—multilateral, bilateral and commercial—were expected to provide the proportionate reduction that will achieve this.
4. While many creditors reduced their debts in accordance with HIPCI, some creditors instead sought to recover the full value of the debt plus accumulated interest and any associated charges owed to them. In response, the UK Parliament passed the time-limited Debt Relief (Poor Countries) Act 2010 (the "2010 Act") which prevented creditors from recovering an amount in excess of that consistent with HIPCI.
5. The proposed legislation would replicate (insofar as appropriate) the 2010 Act with a new act of Parliament supporting the G20's Common Framework and the terms of any debtor country "debt treatments" arranged thereunder.
6. Debt treatments under the Common Framework are initiated at the request of a debtor country on a case-by-case basis. The framework is designed to ensure broad participation of creditors with fair burden sharing. Importantly, it includes not only members of the Paris Club but also G20 official bilateral creditors such as China, India, Turkey or Saudi Arabia that are not members of the Paris Club.
7. The Common Framework can be used to address a wide range of sovereign debt challenges of eligible countries:
  - a. For countries where public debt is not sustainable, it can provide a deep debt restructuring, with a reduction in the net present value of debt sufficient to restore sustainability.
  - b. For countries with sustainable debt but liquidity issues, it can provide a deferral of a portion of debt service payments for a number of years that can ease financing pressures. This type of treatment is often referred to as a "rescheduling" or "reprofiling". Such a debt treatment can also benefit countries where high debt service payments are a source of debt vulnerability.

**TERRITORIAL EXTENT AND APPLICATION**

8. The proposed legislation extends to all parts of the United Kingdom.

**COMMENTARY ON SECTIONS**

**Sections 1-3—Definitions and designations**

9. Section [1] defines the debts to which the legislation applies, following the G20 Common Framework’s principles, and using the Debt Relief (Developing Countries) Act 2010 as a precedent. This is limited to those debts to which debt treatment applies, and which are incurred before agreement is reached under that debt treatment. The Secretary of State may designate international initiatives other than the Common Framework as a debt treatment under the [Act].
10. Subsection (10) defines the range of public entities of a country which benefit from the rights under this Part.
11. Subsection (12)(b) caters for the restructuring of debts.
12. Subsection (15) defines the period of application the proposed legislation. This is the period during which a country either benefits from debt treatment or such other period specified by the Secretary of State under section [3].
13. Section [2] defines in more detail the debts to which the Common Framework applies and to which the Act applies. The definition is based on that used by the World Bank and IMF in determining which debts are included within the Common Framework.
14. Section [3] allows the Secretary of State to identify debt treatments not currently falling under the Common Framework. The criteria are comparable to the Common Framework criteria, but the power to designate a debt relief arrangement as a debt treatment allows the Secretary of State to act quickly in future economic crises. Where a designated debt treatment adopts or is subject to criteria of “comparability of treatment” (either as used by the Paris Club or otherwise), subsection (4) allows the Secretary of State to specify and amend those alternative criteria as applicable to the designated debt treatment for the purposes of Section [5].

**Section 4—Debt relief**

15. Section 4 reduces the amount recoverable on a debt to which the proposed legislation applies to the aggregate amount which the creditor could recover if the creditor provided the level of debt relief expected under the relevant debt treatment.
16. Subsection (1) reduces both qualifying debts and causes of action associated with those debts. Under the 2010 Act it was possible to specify a single amount by which debts would be reduced because the HIPC Initiative had been agreed and the reduction factor was known in advance. The Bill is forward-looking and so cannot specify a single reduction factor. Rather, it reflects current international practice that any reduction of debt should be comparable to a reduction under a relevant debt treatment. For this purpose, the [Bill] posits a hypothetical offer of debt reduction which has been made to the creditor on comparable debt treatment terms, as defined in Section [5]. The aggregate amount that the creditor would have received or would recover under a hypothetical comparable offer then provides a limit to the amount the debtor is permitted to recover for a debt or related cause of action. A cause of action associated with a qualifying debt might, for example, be a damages claim.
17. Subsection (2) applies to instances where an agreement has been reached to reduce—“compromise”—a debt or related cause of action. For example, the creditor and debtor may have agreed to reduce a debt from £100 to £50, while the level of reduction expected under a given debt treatment is 90% (taking into account comparability of debt treatment terms). The effect of these sections is to apply that 90% reduction to the original £100, rather than the £50 value of the debt at the time the legislation is applied. In the example, the amount recoverable would be £10 rather than £5. The subsection ensures that a creditor that has agreed to such a compromise is not disadvantaged in comparison to a creditor that has not.
18. Subsection (3) has the same effect as (2) but covers agreements that reduced the debtor's obligations through rescheduling the terms of repayment or which replaced the original debt with a new debt. Subsection (3) refers to the net present value of future payments. The discount rate

applied in association with the Initiative is the relevant Commercial Interest Reference Rate, as published by the Organisation for Economic Co-operation and Development (“the OECD”).

19. Subsection (4) ensures that the reduction will apply when the qualifying debt is a secured debt, and the secured creditor attempts to enforce the security.
20. The effect of subsection (5) is that UK courts must apply the reduction even if they are applying foreign laws.

#### **Section 5—Meaning of “comparable debt treatment terms”**

21. Section 5 defines “comparable debt treatment terms”. This standard is used in two ways in the [Bill]:
  - a. To determine a limit on the amount a holdout creditor may recover by comparing their actual claim against the amount they would have received or would recover had they accepted an offer from the debtor; and
  - b. To determine whether a creditor’s claim or enforcement action should be stayed because the creditor has refused an offer from the debtor on comparable debt treatment terms.
22. To capture this notion of comparability, Section [5] reflects the Paris Club’s principle of comparability of treatment (“CoT”) as a base line case. In accordance with this principle, the debtor country undertakes to seek from non-multilateral creditors, in particular other official bilateral creditor countries that are not members of the Paris Club and private creditors (mainly banks, bondholders and suppliers), a treatment on comparable terms to those granted in the Agreed Minutes of the relevant debt treatment. The 2010 Act included a provision to support this principle, but CoT has developed since 2010. In practice, Paris Club creditors take a broad-based approach in their assessment of whether a debtor has met the comparability of treatment requirement. Factors for assessing comparability include, for each type of creditor, changes in nominal debt service, net present value and duration of the restructured debt.
23. Section [5] provides for a hierarchy of CoT criteria to permit flexibility:
  - a. Under Section [3](4) (*Designation of debt treatment*), the Secretary of State must, when designating a debt treatment, also specify any internationally agreed CoT criteria applicable to the debt treatment. This is envisaged to be the CoT criteria of the Paris Club, though Section [5](a) enables the Secretary of State to designate any CoT criteria agreed by another international body or grouping (such as the G20), or criteria particular to the debt treatment itself. The qualification of international recognition precludes the Secretary of State from designating unilateral criteria.
  - b. In the absence of available internationally recognised CoT criteria, Section [5](b) adopts the Paris Club’s current (2024) criteria of CoT.
24. It is possible that subsequent debt relief initiatives designated under the Bill, and even the Common Framework, evolve and refine their understanding of CoT. To this end:
  - a. Section [5](a), in parallel with the designation procedure under Section 3, permits the Secretary of State to specify alternative CoT standards to reflect any international agreements on the meaning of CoT.
  - b. The ability to amend any criteria under Section [3](1)(b) offers the necessary flexibility to accommodate the evolving content of negotiations under the designated international debt treatment, which may lead to modifications in the applicable CoT criteria.

#### **Section 6— Judgments for qualifying debts etc**

25. Section 6 reduces the value of judgments and arbitration awards relating to debts to which the proposed legislation applies. It applies to judgments given in the UK before commencement of the relevant period of the debt treatment, so that such judgments may be enforced only for the reduced amount. Section 6 also applies to the enforcement of awards and foreign judgments in the UK, and those awards and judgments may only be enforced for the reduced amount.
26. Subsection (2) has the effect of ensuring that a creditor that has compromised a claim is not disadvantaged, as with section 4(2) and (3).

#### **Section 7—Turnover**

27. Section 7 accounts for situations in which, despite a reduction made under sections 4-6, a creditor receives a payment of a qualifying debt in excess of the proportion provided for under the relevant debt treatment and the proposed legislation. This may happen where a creditor has made multiple claims and recovers from different sources, or a debtor or third party makes payment to the creditor by mistake or under undue threat of legal proceedings.
28. Subsection (1) provides that the amount paid or distributed in excess will be held by the creditor on trust for the debtor country, to be transferred to that debtor country on demand under subsection (2). Subsection (4) provides that if this trust fails (because e.g. the creditor is in a jurisdiction which does not recognise a trust), the creditor will be liable to pay a sum equal to the excess by way of debt.
29. Subsection (3) allows a creditor to recover from any commercial credit protection (such as credit insurance), or to transfer their debt to a third party, without falling foul of this section.

#### **Section 8—Debt service suspension**

30. Section [8] reflects the recommendation of the House of Commons International Development Committees recommendation of its report of 10 March 2023 that:

Given the lack of progress on the Common Framework, the UK Government must support continued emergency debt service suspension for countries that have applied for the Common Framework. This would provide fiscal space for low-income countries while the international community, including the UK, works to develop a long-term approach to debt relief through the Common Framework (*Seventh Report of Session 2022–23*, para.28).

This section specifies conditions for countries not yet subject to debt treatment (but who have applied for such debt treatment) to apply for a stay of legal proceedings under section [10] to provide fiscal headspace while debt treatment negotiations are put in place. A key condition is that the stay may only be sought with respect to claims in respect of relevant debt in the form of bonds and similar debt securities—the principal form of sovereign indebtedness that gives rise to holdout claims against debtor countries.

#### **Section 9—Conditions for grant of stay**

31. Like the 2010 Act, Section [9] seeks to encourage the debtor, but now also the creditor, to engage with comparable debt relief rather than hold out in hope of extracting full repayment. Whereas Section [8] is available to public debtors to provide breathing room while debt treatment negotiations are set up, Section [9] is available only to debtors subject to debt treatment. Where a debtor to which a debt treatment applies has made an offer on comparable debt treatment terms (as defined in Section [5]) to a non-debt treatment creditor, but that creditor nevertheless pursues legal proceedings in the UK in a manner regarded as not in its genuine economic interest, the debtor may ask a UK court to stay those proceedings. In line with existing English case law, such action would not be in a creditor's genuine economic interest if it can be established that the creditor has an ulterior and improper motive e.g. the creditor is a state pursuing a war of aggression against the debtor, the claim is linked to fraud, or the proceedings amount to trafficking in litigation.

#### **Sections [10] and [11]—Stay of legal proceedings and Moratorium on other legal process**

- 
32. Section [10] provides for a standstill of debt-related legal or arbitral proceedings against a public debtor (meeting the Section [8] conditions) or a qualifying public debtor (meeting the Section 9 conditions). The standstill in no way releases the debt of the country, nor amounts to a waiver or forbearance on the part of the creditor.
  33. On the commencement or continuance of court or arbitral proceedings, the public debtor is entitled to apply to the court for a time-limited stay of proceedings which must be granted provided that the country has taken steps to acknowledge those proceedings. The stay of proceedings has the effect of stopping the effluxion of any limitation period, protecting the creditor.
  34. Subsection (3) ensures the stay applies only to litigation or arbitral proceedings (including enforcement) initiated after the commencement of the relevant period as designated under section [1](15).
  35. Section [11] supports section [10] by imposing a moratorium on ancillary legal process related to debt, unless any such proceedings are consented to by the country or court. The affected legal process includes, enforcement against security, repossession of goods and the actions of landlord against tenant. The section reflects the many cases in which creditors of countries have sought to enforce against out-of-country state property, such as ships, land, and bank monies. The moratorium also reflects the existing moratorium benefitting companies under Schedule B1, Insolvency Act 1986. The court has discretion to grant leave, and this mirrors existing English case law.

**Section 12—Exception for overriding international obligations**

36. Sections [6], [8] and [9] apply the Act to certain foreign judgments or arbitration awards. The UK is obliged to enforce foreign judgments and awards under a number of international instruments. The measures under this Act will apply where, under the relevant international instruments, the UK is entitled to refuse to enforce judgments and awards on the basis that to do so would be contrary to the UK's public policy.
37. Section [12] excludes foreign judgments and arbitration awards from the effects of the Act where the UK is obliged under international instruments to enforce them in full, even where such enforcement is contrary to the UK's public policy.

**Section 13—Saving**

38. Section [13] prevents the proposed legislation from requiring repayment by the creditor of an amount already paid by the debtor in relation to any of the liabilities dealt with by the proposed legislation. It further confirms that the proposed legislation does not affect any other defences a public debtor has under applicable law (e.g. under English contract law).

**Section 14—Commencement, extent and short title**

39. Under section [14], the proposed legislation would come into force [two months] after receiving Royal Assent.