

# Small Company Administrative Rescue Process and Miscellaneous Provisions Bill 2021

## Summary of provisions



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### Introduction

The bill is intended to provide a procedure, analogous to examinership, by which small companies can restructure their debts and obligations with limited Court involvement. The process will be administered by an insolvency practitioner appointed by the Company, who will be known as the “process advisor”.

### Eligibility criteria

Small or micro companies only

Unable or likely to be unable to pay debts

Not have used process in preceding 5 years

Not in liquidation

### Proposed rescue plan

- No prescribed components / exclusions.
- May involve debts owed to creditors being written down.
- Different classes of creditors may be treated differently.
- May include repudiation of onerous contracts / leases.
- May include reduction of rents, but only with landlord consent.
- May include new investment from current or new shareholders.
- May involve rights of existing shareholders being diluted.

## Excludable Debts



“Excludable Debts” are those owed to the State arising out of taxes, duties, levies, etc. or under Social Welfare Acts.



A plan may compromise excludable debts unless the creditor objects.



Where a draft rescue plan compromises excludable debts the Process Advisor must give 14 days notice to the creditor and invite their objection.

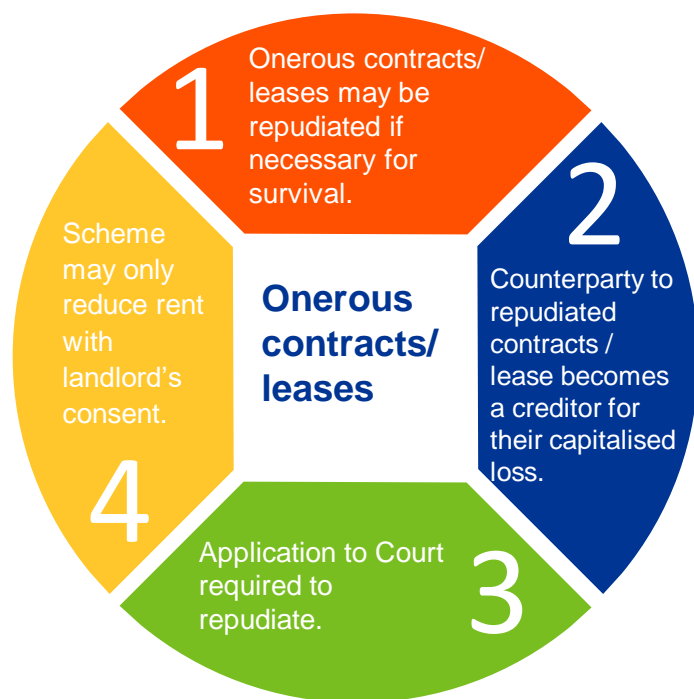


If the creditor does not respond within 14 days, then they are deemed to consent to their debt being compromised.



The only grounds on which a creditor with an Excludable Debt may object are:

- Where tax returns are outstanding,
- where there is an ongoing tax audit or intervention,
- where taxes are under appeal,
- where there is a history of non-compliance with tax obligations, or
- such other grounds as may be prescribed.



## Approval process

- Process Advisor summons meetings of each class of creditors & members within 42 days of appointment.
- Votes are counted by value only and not value and number.
- A simple majority of at least one class of impaired creditors must approve.
- The plan becomes binding 7 days after statutory notices are filed, unless objected to within 21 days.
- A plan that is objected to becomes binding 21 days after being sanctioned by the Court.
- The Court will sanction a plan unless it is unfair and inequitable, or unfairly prejudicial to the objecting member / creditor.

## Role of the Court

Process advisor determines whether High Court or Circuit Court has jurisdiction.



Court may determine any question referred by Process Advisor, creditors contributories, ODCE.



Court may stand down a receiver or provisional liquidator.



Court may grant protection from creditors similar to in examinership.



Court must consider proposed repudiation of onerous contracts / leases.



Court must hear objections made by creditors / members opposed to rescue plan.

