

New Debt Collection Rules - More Bureaucratic Gobbledegook

Pre-Action Protocol For Debt Claims

Tomorrow, **1 October 2017**, the new Pre-Action Protocol For Debt Claims will come into force and will govern all debt collection against individuals (which includes sole traders).

A creditor whose bills have not been paid will now be required to send a letter before action setting out a raft of specified information including:

- details of the debt and any interest or charges,
- details of the agreement under which the debt arose,
- how the debtor can pay the debt and any instalment options available.

The creditor must also enclose an up-to-date statement of account together with an Information Sheet and a Reply Form.

The debtor must then be allowed 30 days within which to reply and the creditor should consider allowing payment by instalments or give its reasons if it refuses. From the receipt of the debtor's Reply Form, the creditor must allow a further 30 days in which to negotiate with the debtor before it can issue proceedings!

Essentially individual clients and customers will now have at least 60-90 days within which to avoid paying their bills.

The stated aim of the protocol is to '*encourage early engagement and communication between the parties*'. Had the debtor actually paid the money that he owed and which he invariably will have known that he owed, such encouragement would not be required.

In our view, this protocol is completely misguided and will give rise to a number of unintended consequences and hugely increased irrecoverable costs.

For debts above £5,000 creditors might be advised to proceed straight to service of a statutory demand but the presentation of a bankruptcy petition is an expensive business so that is not a step to be taken lightly or against impecunious debtors. Debts below £5,000 will in many cases not be economic to collect at all and we foresee most businesses stopping any form of credit to individual clients. Some creditors might just choose to ignore the new protocol altogether and risk a hit on costs for doing so – this may be especially true for smaller debts to be collected via the Small Claims Track in which costs may not be awarded anyway.

AMB Law has a ready-prepared suite of all the documents required for compliance with the above protocol, if you require assistance in this regard, please get in touch.

If you have any queries in relation to this, or any other, matter, please do not hesitate to contact us – office@amblaw.co.uk or 020 3651 5646.



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