



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART VIII

#### INDIVIDUAL VOLUNTARY ARRANGEMENTS

##### Modifications etc. (not altering text)

- C1** Pt. VIII (ss. 252-263) applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), [art. 5](#)
- C2** Pt. VIII (ss. 252-263) restricted (6.4.1996 for the purpose only of authorising the making of regulations) by [1995 c. 26](#), [ss. 91\(3\)](#), [180\(1\)](#) (with [s. 121\(5\)](#)); [S.I. 1996/778](#), [art. 2\(5\)\(a\)](#). Sch. Pt. V
- C3** Pt. VIII (ss. 252-263) applied with modifications by [S.I. 1986/2142](#), [arts. 1\(2\)](#), [11](#), [13\(3\)](#), [15](#)
- C4** Second Group of Parts (Pts. 8-11) modified (31.12.1996) by [1991 c. 57](#), [Sch. 10](#) (as substituted by [1995 c. 25](#), [s. 120\(1\)](#)), [Sch. 22 para. 183](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.I. 1996/2909](#), [art. 3](#)  
Second Group of Parts (Pts. 8-11) modified (11.11.1999 for specified purposes and 6.4.2002 otherwise) by [1999 c. 30](#), [s. 12\(1\)](#); [S.I. 2002/153](#), [art. 2\(b\)](#)

#### *Moratorium for insolvent debtor*

##### **252 Interim order of court.**

- (1) In the circumstances specified below, the court may in the case of a debtor (being an individual) make an interim order under this section.
- (2) An interim order has the effect that, during the period for which it is in force—
  - (a) no bankruptcy petition relating to the debtor may be presented or proceeded with,
  - [<sup>F1</sup>(aa) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the debtor in respect of a failure by the debtor to comply with any term or condition of his tenancy of such premises, except with the leave of the court] and

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- (b) no other proceedings, and no execution or other legal process, may be commenced or continued [<sup>F2</sup>and no distress may be levied] against the debtor or his property except with leave of the court.

#### Textual Amendments

- F1** S. 252(2)(aa) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 2(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F2** Words in s. 252(2)(b) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 2(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

### 253 Application for interim order.

- (1) Application to the court for an interim order may be made where the debtor intends to make a proposal [<sup>F3</sup>under this Part, that is, a proposal] to his creditors for a composition in satisfaction of his debts or a scheme of arrangement of his affairs (from here on referred to, in either case, as a “voluntary arrangement”).
- (2) The proposal must provide for some person (“the nominee”) to act in relation to the voluntary arrangement either as trustee or otherwise for the purpose of supervising its implementation [<sup>F4</sup>and the nominee must be a person who is qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement].
- (3) Subject as follows, the application may be made—
- (a) if the debtor is an undischarged bankrupt, by the debtor, the trustee of his estate, or the official receiver, and
  - (b) in any other case, by the debtor.
- (4) An application shall not be made under subsection (3)(a) unless the debtor has given notice of [<sup>F5</sup>the proposal] to the official receiver and, if there is one, the trustee of his estate.
- (5) An application shall not be made while a bankruptcy petition presented by the debtor is pending, if the court has, under section 273 below, appointed an insolvency practitioner to inquire into the debtor’s affairs and report.

#### Textual Amendments

- F3** Words in s. 253(1) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 3(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F4** Words in s. 253(2) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 3(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F5** Words in s. 253(4) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 3(c)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

#### Modifications etc. (not altering text)

- C5** S. 253 amended (1.12.2001) by 2000 c. 8, s. **357(1)**; S.I. 2001/3538, **art. 2(1)**

### 254 Effect of application.

- (1) At any time when an application under section 253 for an interim order is pending

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- [<sup>F6</sup>(a) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the debtor in respect of a failure by the debtor to comply with any term or condition of his tenancy of such premises, except with the leave of the court, and
- (b) , the court may [<sup>F7</sup>forbid the levying of any distress on the debtor's property or its subsequent sale, or both, and] stay any action, execution or other legal process against the property or person of the debtor.
- (2) Any court in which proceedings are pending against an individual may, on proof that an application under that section has been made in respect of that individual, either stay the proceedings or allow them to continue on such terms as it thinks fit.

#### Textual Amendments

**F6** S. 254(1)(a) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 4(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

**F7** Words in S. 254(1)(b) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 4(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

## 255 Cases in which interim order can be made.

- (1) The court shall not make an interim order on an application under section 253 unless it is satisfied—
- that the debtor intends to make [<sup>F8</sup>a proposal under this Part];
  - that on the day of the making of the application the debtor was an undischarged bankrupt or was able to petition for his own bankruptcy;
  - that no previous application has been made by the debtor for an interim order in the period of 12 months ending with that day; and
  - that the nominee under the debtor's proposal <sup>F9</sup> . . . is willing to act in relation to the proposal.
- (2) The court may make an order if it thinks that it would be appropriate to do so for the purpose of facilitating the consideration and implementation of the debtor's proposal.
- (3) Where the debtor is an undischarged bankrupt, the interim order may contain provision as to the conduct of the bankruptcy, and the administration of the bankrupt's estate, during the period for which the order is in force.
- (4) Subject as follows, the provision contained in an interim order by virtue of subsection (3) may include provision staying proceedings in the bankruptcy or modifying any provision in this Group of Parts, and any provision of the rules in their application to the debtor's bankruptcy.
- (5) An interim order shall not, in relation to a bankrupt, make provision relaxing or removing any of the requirements of provisions in this Group of Parts, or of the rules, unless the court is satisfied that that provision is unlikely to result in any significant diminution in, or in the value of, the debtor's estate for the purposes of the bankruptcy.
- (6) Subject to the following provisions of this Part, an interim order made on an application under section 253 ceases to have effect at the end of the period of 14 days beginning with the day after the making of the order.

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### Textual Amendments

- F8** Words in s. 255(1)(a) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 5(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F9** Words in s. 255(1)(d) repealed (1.1.2003) by 2000 c. 39, ss. 3, 15, **Sch. 3 paras. 5(b), Sch. 5**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

## 256 Nominee's report on debtor's proposal.

- (1) Where an interim order has been made on an application under section 253, the nominee shall, before the order ceases to have effect, submit a report to the court stating—
  - (a) [<sup>F10</sup>whether, in his opinion, the voluntary arrangement which the debtor is proposing has a reasonable prospect of being approved and implemented,
  - (aa)]whether, in his opinion, a meeting of the debtor's creditors should be summoned to consider the debtors' proposal, and
  - (b) if in his opinion such a meeting should be summoned, the date on which, and time and place at which, he proposes the meeting should be held.
- (2) For the purpose of enabling the nominee to prepare his report the debtor shall submit to the nominee—
  - (a) a document setting out the terms of the voluntary arrangement which the debtor is proposing, and
  - (b) a statement of his affairs containing—
    - (i) such particulars of his creditors and of his debts and other liabilities and of his assets as may be prescribed, and
    - (ii) such other information as may be prescribed.
- [<sup>F11</sup>(3) The court may—
  - (a) on an application made by the debtor in a case where the nominee has failed to submit the report required by this section or has died, or
  - (b) on an application made by the debtor or the nominee in a case where it is impracticable or inappropriate for the nominee to continue to act as such,
 direct that the nominee shall be replaced as such by another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.
- (3A) The court may, on an application made by the debtor in a case where the nominee has failed to submit the report required by this section, direct that the interim order shall continue, or (if it has ceased to have effect) be renewed, for such further period as the court may specify in the direction.]
- (4) The court may, on the application of the nominee, extend the period for which the interim order has effect so as to enable the nominee to have more time to prepare his report.
- (5) If the court is satisfied on receiving the nominee's report that a meeting of the debtor's creditors should be summoned to consider the debtor's proposal, the court shall direct that the period for which the interim order has effect shall be extended, for such further period as it may specify in the direction, for the purpose of enabling the debtor's

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proposal to be considered by his creditors in accordance with the following provisions of this Part.

- (6) The court may discharge the interim order if it is satisfied, on the application of the nominee—
- (a) that the debtor has failed to comply with his obligations under subsection (2), or
  - (b) that for any other reason it would be inappropriate for a meeting of the debtor’s creditors to be summoned to consider the debtor’s proposal.

#### Textual Amendments

**F10** Words in s. 256(1) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 6(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

**F11** S. 256(3)(3A) substituted for s. 256(3) (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 6(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

#### Modifications etc. (not altering text)

**C6** Ss. 256–263 applied with modifications by S.I. 1986/1999, **art. 3, Sch. I Pt. III**

### *[<sup>F12</sup> Procedure where no interim order made]*

#### Textual Amendments

**F12** Cross-heading preceding s. 256A, s. 256A and cross-heading before s. 257 inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 7**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

### **[<sup>F13</sup> 256A Debtor’s proposal and nominee’s report.**

- (1) This section applies where a debtor (being an individual)—
- (a) intends to make a proposal under this Part (but an interim order has not been made in relation to the proposal and no application for such an order is pending), and
  - (b) if he is an undischarged bankrupt, has given notice of the proposal to the official receiver and, if there is one, the trustee of his estate,
- unless a bankruptcy petition presented by the debtor is pending and the court has, under section 273, appointed an insolvency practitioner to inquire into the debtor’s affairs and report.
- (2) For the purpose of enabling the nominee to prepare a report [<sup>F14</sup>under subsection (3)], the debtor shall submit to the nominee—
- (a) a document setting out the terms of the voluntary arrangement which the debtor is proposing, and
  - (b) a statement of his affairs containing—
    - (i) such particulars of his creditors and of his debts and other liabilities and of his assets as may be prescribed, and
    - (ii) such other information as may be prescribed.
- (3) If the nominee is of the opinion that the debtor is an undischarged bankrupt, or is able to petition for his own bankruptcy, the nominee shall, within 14 days (or such longer

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period as the court may allow) after receiving the document and statement mentioned in subsection (2), submit a <sup>F15</sup>report to the debtor's creditors] stating—

- (a) whether, in his opinion, the voluntary arrangement which the debtor is proposing has a reasonable prospect of being approved and implemented,
- (b) whether, in his opinion, a meeting of the debtor's creditors should be summoned to consider the debtor's proposal, and
- (c) if in his opinion such a meeting should be summoned, the date on which, and time and place at which, he proposes the meeting should be held.

(4) The court may—

- (a) on an application made by the debtor in a case where the nominee has failed to submit the report required by this section or has died, or
- (b) on an application made by the debtor or the nominee in a case where it is impracticable or inappropriate for the nominee to continue to act as such,

direct that the nominee shall be replaced as such by another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.

(5) The court may, on an application made by the nominee, extend the period within which the nominee is to submit his report.]

#### Textual Amendments

- F13** Cross-heading preceding s. 256A, s. 256A and cross-heading before s. 257 inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 7**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)
- F14** Words in s. 256A(2) substituted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 8(1)(a)**
- F15** Words in s. 256A(3) substituted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 8(1)(b)**

<sup>F16</sup> *Creditors' meeting*

#### Textual Amendments

- F16** Cross-heading preceding s. 256A, s. 256A and cross-heading before s. 257 inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 7**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)

## 257 Summoning of creditors' meeting.

<sup>F17</sup>(1) Where it has been reported to the court under section 256 or to the debtor's creditors under section 256A that a meeting of debtor's creditors should be summoned, the nominee (or the nominee's replacement under section 256(3) or 256A(4)) shall summon that meeting for the time, date and place proposed in the nominee's report unless, in the case of a report to which section 256 applies, the court otherwise directs.]

(2) The persons to be summoned to the meeting are every creditor of the debtor of whose claim and address the person summoning the meeting is aware.

(3) For this purpose the creditors of a debtor who is an undischarged bankrupt include—

- (a) every person who is a creditor of the bankrupt in respect of a bankruptcy debt, and

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- (b) every person who would be such a creditor if the bankruptcy had commenced on the date on which notice of the meeting is given.

#### Textual Amendments

**F17** S. 257(1) substituted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 8(2)**

#### Modifications etc. (not altering text)

**C7** Ss. 256–263 applied with modifications by [S.I. 1986/1999, art. 3, Sch. I Pt. III](#)

**C8** S. 257 amended (1.12.2001) by [2000 c. 8, s. 357\(1\)](#); [S.I. 2001/3538, art. 2\(1\)](#)

### *Consideration and implementation of debtor's proposal*

#### **258 Decisions of creditor's meeting.**

- (1) A creditors' meeting summoned under section 257 shall decide whether to approve the proposed voluntary arrangement.
- (2) The meeting may approve the proposed voluntary arrangement with modifications, but shall not do so unless the debtor consents to each modification.
- (3) The modifications subject to which the proposed voluntary arrangement may be approved may include one conferring the functions proposed to be conferred on the nominee on another person qualified to act as an insolvency practitioner [<sup>F18</sup>or authorised to act as nominee, in relation to the voluntary arrangement].

But they shall not include any modification by virtue of which the proposal ceases to be a proposal [<sup>F18</sup>under this Part].

- (4) The meeting shall not approve any proposal or modification which affects the right of a secured creditor of the debtor to enforce his security, except with the concurrence of the creditor concerned.
- (5) Subject as follows, the meeting shall not approve any proposal or modification under which—
  - (a) any preferential debt of the debtor is to be paid otherwise than in priority to such of his debts as are not preferential debts, <sup>F19</sup>...
  - <sup>F20</sup>(aa) any ordinary preferential debt of the debtor is to be paid otherwise than in priority to any secondary preferential debts that the debtor may have,]
  - (b) a preferential creditor of the debtor is to be paid an amount in respect of [<sup>F21</sup>an ordinary preferential debt] that bears to that debt a smaller proportion than is borne to [<sup>F22</sup>another ordinary] preferential debt by the amount that is to be paid in respect of that other debt [<sup>F23</sup>, or
  - (c) a preferential creditor of the debtor is to be paid an amount in respect of a secondary preferential debt that bears to that debt a smaller proportion than is borne to another secondary preferential debt by the amount that is to be paid in respect of that other debt.]

However, the meeting may approve such a proposal or modification with the concurrence of the preferential creditor concerned.

- (6) Subject as above, the meeting shall be conducted in accordance with the rules.

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- (7) In this section “preferential debt” <sup>[F24]</sup>, “ordinary preferential debt” and “secondary preferential debt” each has] the meaning given by section 386 in Part XII; and “preferential creditor” is to be construed accordingly.

#### Textual Amendments

- F18** Words in s. 258(3) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 9**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F19** Word in s. 258(5)(a) omitted (1.1.2015) by virtue of **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014** (S.I. 2014/3486), **arts. 1(2), 6(2)(a)** (with art. 3)
- F20** S. 258(5)(aa) inserted (1.1.2015) by **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014** (S.I. 2014/3486), **arts. 1(2), 6(2)(b)** (with art. 3)
- F21** Words in s. 258(5)(b) substituted (1.1.2015) by **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014** (S.I. 2014/3486), **arts. 1(2), 6(2)(c)(i)** (with art. 3)
- F22** Words in s. 258(5)(b) substituted (1.1.2015) by **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014** (S.I. 2014/3486), **arts. 1(2), 6(2)(c)(ii)** (with art. 3)
- F23** S. 258(5)(c) and word inserted (1.1.2015) by **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014** (S.I. 2014/3486), **arts. 1(2), 6(2)(d)** (with art. 3)
- F24** Words in s. 258(7) substituted (1.1.2015) by **The Banks and Building Societies (Depositor Preference and Priorities) Order 2014** (S.I. 2014/3486), **arts. 1(2), 6(3)** (with art. 3)

#### Modifications etc. (not altering text)

- C9** Ss. 256-263 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. I Pt. III**
- C10** S. 258 modified (10.8.2005) by **The Insurers (Reorganisation and Winding Up) Regulations 2004** (S.I. 2004/353), **reg. 33(5)** (as modified (10.8.2005) by S.I. 2005/1998, **regs. 2(3)**, {40(1)-(4)(11)})

## 259 Report of decisions to court.

- <sup>[F25]</sup>(1) After the conclusion in accordance with the rules of the meeting summoned under section 257, the chairman of the meeting shall—
- (a) give notice of the result of the meeting to such persons as may be prescribed, and
  - (b) where the meeting was summoned under section 257 pursuant to a report to the court under section 256(1)(aa) <sup>F26</sup>, report the result of it to the court.]
- (2) If the report is that the meeting has declined (with or without modifications) to approve the <sup>[F27]</sup>voluntary arrangement proposed under section 256], the court may discharge any interim order which is in force in relation to the debtor.

#### Textual Amendments

- F25** S. 259(1) substituted (6.4.2010) by **The Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010** (S.I. 2010/18), **art. 8(3)(a)**
- F26** Section 256(1)(a) was re-lettered paragraph (aa) by the **Insolvency Act 2000** (c.23), **Schedule 3**, paragraphs 1 and 6(a).
- F27** Words in s. 259(2) substituted (6.4.2010) by **The Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010** (S.I. 2010/18), **art. 8(3)(b)**

#### Modifications etc. (not altering text)

- C11** Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, **Sch. I Pt. III**



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## 260 Effect of approval.

- (1) This section has effect where the meeting summoned under section 257 approves the proposed voluntary arrangement (with or without modifications).
- (2) The approved arrangement—
  - (a) takes effect as if made by the debtor at the meeting, and
  - [<sup>F28</sup>(b) binds every person who in accordance with the rules—
    - (i) was entitled to vote at the meeting (whether or not he was present or represented at it), or
    - (ii) would have been so entitled if he had had notice of it, as if he were a party to the arrangement.
- (2A) If—
  - (a) when the arrangement ceases to have effect any amount payable under the arrangement to a person bound by virtue of subsection (2)(b)(ii) has not been paid, and
  - (b) the arrangement did not come to an end prematurely,the debtor shall at that time become liable to pay to that person the amount payable under the arrangement.]
- (3) The <sup>M1</sup>Deeds of Arrangement Act 1914 does not apply to the approved voluntary arrangement.
- (4) Any interim order in force in relation to the debtor immediately before the end of the period of 28 days beginning with the day on which the report with respect to the creditors' meeting was made to the court under section 259 ceases to have effect at the end of that period.

This subsection applies except to such extent as the court may direct for the purposes of any application under section 262 below.

- (5) Where proceedings on a bankruptcy petition have been stayed by an interim order which ceases to have effect under subsection (4), that petition is deemed, unless the court otherwise orders, to have been dismissed.

### Textual Amendments

**F28** S. 260(2)(b)(2A) substituted for 260(2)(b) (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 10**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)

### Modifications etc. (not altering text)

**C12** Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, **Sch. I Pt. III**

### Marginal Citations

**M1** 1914 c. 47.

## [<sup>F29</sup>261 Additional effect on undischarged bankrupt

- (1) This section applies where—
  - (a) the creditors' meeting summoned under section 257 approves the proposed voluntary arrangement (with or without modifications), and

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- (b) the debtor is an undischarged bankrupt.
- (2) Where this section applies the court shall annul the bankruptcy order on an application made—
  - (a) by the bankrupt, or
  - (b) where the bankrupt has not made an application within the prescribed period, by the official receiver.
- (3) An application under subsection (2) may not be made—
  - (a) during the period specified in section 262(3)(a) during which the decision of the creditors' meeting can be challenged by application under section 262,
  - (b) while an application under that section is pending, or
  - (c) while an appeal in respect of an application under that section is pending or may be brought.
- (4) Where this section applies the court may give such directions about the conduct of the bankruptcy and the administration of the bankrupt's estate as it thinks appropriate for facilitating the implementation of the approved voluntary arrangement.]

#### Textual Amendments

**F29** S. 261 substituted (1.4.2004) by 2002 c. 40, ss. 264(1), 279, Sch. 22 para. 1 (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

## 262 Challenge of meeting's decision.

- (1) Subject to this section, an application to the court may be made, by any of the persons specified below, on one or both of the following grounds, namely—
  - (a) that a voluntary arrangement approved by a creditors' meeting summoned under section 257 unfairly prejudices the interests of a creditor of the debtor;
  - (b) that there has been some material irregularity at or in relation to such a meeting.
- (2) The persons who may apply under this section are—
  - (a) the debtor;
  - [<sup>F30</sup>(b) a person who—
    - (i) was entitled, in accordance with the rules, to vote at the creditors' meeting, or
    - (ii) would have been so entitled if he had had notice of it]
  - (c) the nominee (or his replacement under section [<sup>F31</sup>256(3), 256A(4)] or 258(3)); and
  - (d) if the debtor is an undischarged bankrupt, the trustee of his estate or the official receiver.
- (3) An application under this section shall not be made[<sup>F32</sup>(a)]after the end of the period of 28 days beginning with the day on which the report of the creditors' meeting was made to the court under section 259 [<sup>F32</sup>or
  - (b) in the case of a person who was not given notice of the creditors' meeting, after the end of the period of 28 days beginning with the day on which he became aware that the meeting had taken place,

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- but (subject to that) an application made by a person within subsection (2)(b)(ii) on the ground that the arrangement prejudices his interests may be made after the arrangement has ceased to have effect, unless it has come to an end prematurely.]
- (4) Where on an application under this section the court is satisfied as to either of the grounds mentioned in subsection (1), it may do one or both of the following, namely—
- (a) revoke or suspend any approval given by the meeting;
  - (b) give a direction to any person for the summoning of a further meeting of the debtor's creditors to consider any revised proposal he may make or, in a case falling within subsection (1)(b), to reconsider his original proposal.
- (5) Where at any time after giving a direction under subsection (4)(b) for the summoning of a meeting to consider a revised proposal the court is satisfied that the debtor does not intend to submit such a proposal, the court shall revoke the direction and revoke or suspend any approval given at the previous meeting.
- (6) Where the court gives a direction under subsection (4)(b), it may also give a direction continuing or, as the case may require, renewing, for such period as may be specified in the direction, the effect in relation to the debtor of any interim order.
- (7) In any case where the court, on an application made under this section with respect to a creditors' meeting, gives a direction under subsection (4)(b) or revokes or suspends an approval under subsection (4)(a) or (5), the court may give such supplemental directions as it thinks fit and, in particular, directions with respect to—
- (a) things done since the meeting under any voluntary arrangement approved by the meeting, and
  - (b) such things done since the meeting as could not have been done if any interim order had been in force in relation to the debtor when they were done.
- (8) Except in pursuance of the preceding provisions of this section, an approval given at a creditors' meeting summoned under section 257 is not invalidated by any irregularity at or in relation to the meeting.

#### Textual Amendments

- F30** S. 262(2)(b) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 11(1)(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F31** Words in s. 262(2)(c) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 11(1)(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F32** Words in s. 262(3) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 11(2)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

#### Modifications etc. (not altering text)

- C13** Ss. 256–263 applied with modifications by S.I. 1986/1999, **art. 3, Sch. I Pt. III**
- C14** S. 262 amended (1.12.2001) by 2000 c. 8, **s. 357(5)(a)**; S.I. 2001/3538, **art. 2(1)**

#### [<sup>F33</sup> 262A False representations etc.

- (1) If for the purpose of obtaining the approval of his creditors to a proposal for a voluntary arrangement, the debtor—
- (a) makes any false representation, or
  - (b) fraudulently does, or omits to do, anything,

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he commits an offence.

- (2) Subsection (1) applies even if the proposal is not approved.
- (3) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.]

#### **Textual Amendments**

**F33** S. 262A inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 12**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in [arts. 3-5](#))

#### **<sup>F34</sup>262B Prosecution of delinquent debtors.**

- (1) This section applies where a voluntary arrangement approved by a creditors' meeting summoned under section 257 has taken effect.
- (2) If it appears to the nominee or supervisor that the debtor has been guilty of any offence in connection with the arrangement for which he is criminally liable, he shall forthwith—
  - (a) report the matter to the Secretary of State, and
  - (b) provide the Secretary of State with such information and give the Secretary of State such access to and facilities for inspecting and taking copies of documents (being information or documents in his possession or under his control and relating to the matter in question) as the Secretary of State requires.
- (3) Where a prosecuting authority institutes criminal proceedings following any report under subsection (2), the nominee or, as the case may be, supervisor shall give the authority all assistance in connection with the prosecution which he is reasonably able to give.

For this purpose, “prosecuting authority” means the Director of Public Prosecutions or the Secretary of State.

- (4) The court may, on the application of the prosecuting authority, direct a nominee or supervisor to comply with subsection (3) if he has failed to do so.

#### **Textual Amendments**

**F34** S. 262B inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 12**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in [arts. 3-5](#))

#### **<sup>F35</sup>262C Arrangements coming to an end prematurely.**

For the purposes of this Part, a voluntary arrangement approved by a creditors' meeting summoned under section 257 comes to an end prematurely if, when it ceases to have effect, it has not been fully implemented in respect of all persons bound by the arrangement by virtue of section 260(2)(b)(i).

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#### Textual Amendments

- F35** S. 262C inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 12**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

### 263 Implementation and supervision of approved voluntary arrangement.

- (1) This section applies where a voluntary arrangement approved by a creditors' meeting summoned under section 257 has taken effect.
- (2) The person who is for the time being carrying out, in relation to the voluntary arrangement, the functions conferred by virtue of the approval on the nominee (or his replacement under section [<sup>F36</sup>256(3), 256A(4)] or 258(3)) shall be known as the supervisor of the voluntary arrangement.
- (3) If the debtor, any of his creditors or any other person is dissatisfied by any act, omission or decision of the supervisor, he may apply to the court; and on such an application the court may—
  - (a) confirm, reverse or modify any act or decision of the supervisor,
  - (b) give him directions, or
  - (c) make such other order as it thinks fit.
- (4) The supervisor may apply to the court for directions in relation to any particular matter arising under the voluntary arrangement.
- (5) The court may, whenever—
  - (a) it is expedient to appoint a person to carry out the functions of the supervisor, and
  - (b) it is inexpedient, difficult or impracticable for an appointment to be made without the assistance of the court,

make an order appointing a person who is qualified to act as an insolvency practitioner [<sup>F37</sup>or authorised to act as supervisor, in relation to the voluntary arrangement], either in substitution for the existing supervisor or to fill a vacancy.

This is without prejudice to section 41(2) of the <sup>M2</sup>Trustee Act 1925 (power of court to appoint trustees of deeds of arrangement).

- (6) The power conferred by subsection (5) is exercisable so as to increase the number of persons exercising the functions of the supervisor or, where there is more than one person exercising those functions, so as to replace one or more of those persons.

#### Textual Amendments

- F36** Words in s. 263(2) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 13(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F37** Words in s. 263(5) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 13(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

#### Modifications etc. (not altering text)

- C15** Ss. 256–263 applied with modifications by S.I. 1986/1999, **art. 3**, **Sch. I Pt. III**  
S. 263 amended (1.12.2001) by 2000 c. 8, **s. 357(5)(b)**; S.I. 2001/3538, **art. 2(1)**

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### Marginal Citations

M2 1925 c. 19.

<sup>F38</sup>*Fast-track voluntary arrangement*

### Textual Amendments

**F38** Ss. 263A-263G and cross-heading inserted (1.4.2004) by 2002 c. 40, ss. 264(1), 279, Sch. 22 para. 2 (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

## 263A Availability

Section 263B applies where an individual debtor intends to make a proposal to his creditors for a voluntary arrangement and—

- (a) the debtor is an undischarged bankrupt,
- (b) the official receiver is specified in the proposal as the nominee in relation to the voluntary arrangement, and
- (c) no interim order is applied for under section 253.

## 263B Decision

- (1) The debtor may submit to the official receiver—
  - (a) a document setting out the terms of the voluntary arrangement which the debtor is proposing, and
  - (b) a statement of his affairs containing such particulars as may be prescribed of his creditors, debts, other liabilities and assets and such other information as may be prescribed.
- (2) If the official receiver thinks that the voluntary arrangement proposed has a reasonable prospect of being approved and implemented, he may make arrangements for inviting creditors to decide whether to approve it.
- (3) For the purposes of subsection (2) a person is a “creditor” only if—
  - (a) he is a creditor of the debtor in respect of a bankruptcy debt, and
  - (b) the official receiver is aware of his claim and his address.
- (4) Arrangements made under subsection (2)—
  - (a) must include the provision to each creditor of a copy of the proposed voluntary arrangement,
  - (b) must include the provision to each creditor of information about the criteria by reference to which the official receiver will determine whether the creditors approve or reject the proposed voluntary arrangement, and
  - (c) may not include an opportunity for modifications to the proposed voluntary arrangement to be suggested or made.
- (5) Where a debtor submits documents to the official receiver under subsection (1) no application under section 253 for an interim order may be made in respect of the debtor until the official receiver has—
  - (a) made arrangements as described in subsection (2), or

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- (b) informed the debtor that he does not intend to make arrangements (whether because he does not think the voluntary arrangement has a reasonable prospect of being approved and implemented or because he declines to act).

## **Result**

**F39** 263C

As soon as is reasonably practicable after the implementation of arrangements under section 263B(2) the official receiver shall [<sup>F40</sup>notify the Secretary of State] whether the proposed voluntary arrangement has been approved or rejected.]

### **Textual Amendments**

- F39** Ss. 263A-263G and cross-heading inserted (1.4.2004) by 2002 c. 40, ss. 264(1), 279, Sch. 22 para. 2 (with s. 249(6)); S.I. 2003/2093, art. 2(2), Sch. 2 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F40** Words in s. 263C substituted (6.4.2010) by The Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 (S.I. 2010/18), art. 9(1)

## **Approval of voluntary arrangement**

**F41** 263D

- (1) This section applies where the official receiver [<sup>F42</sup>notifies the Secretary of State] under section 263C that a proposed voluntary arrangement has been approved.
- (2) The voluntary arrangement—
- takes effect,
  - binds the debtor, and
  - binds every person who was entitled to participate in the arrangements made under section 263B(2).
- (3) The court shall annul the bankruptcy order in respect of the debtor on an application made by the official receiver.
- (4) An application under subsection (3) may not be made—
- during the period specified in section 263F(3) during which the voluntary arrangement can be challenged by application under section 263F(2),
  - while an application under that section is pending, or
  - while an appeal in respect of an application under that section is pending or may be brought.
- (5) The court may give such directions about the conduct of the bankruptcy and the administration of the bankrupt's estate as it thinks appropriate for facilitating the implementation of the approved voluntary arrangement.
- (6) The Deeds of Arrangement Act 1914 (c. 47) does not apply to the voluntary arrangement.
- (7) A reference in this Act or another enactment to a voluntary arrangement approved under this Part includes a reference to a voluntary arrangement which has effect by virtue of this section.]

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#### Textual Amendments

- F41** Ss. 263A-263G and cross-heading inserted (1.4.2004) by [2002 c. 40, ss. 264\(1\), 279, Sch. 22 para. 2](#) (with [s. 249\(6\)](#)); [S.I. 2003/2093, art. 2\(2\)](#), Sch. 2 (subject to [arts. 3-8](#) (as amended by [S.I. 2003/2332, art. 2](#)))
- F42** Words in s. 263D(1) substituted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\), art. 9\(2\)](#)

### 263E Implementation

Section 263 shall apply to a voluntary arrangement which has effect by virtue of section 263D(2) as it applies to a voluntary arrangement approved by a creditors' meeting.

### Revocation

<sup>F43</sup>263F

- (1) The court may make an order revoking a voluntary arrangement which has effect by virtue of section 263D(2) on the ground—
  - (a) that it unfairly prejudices the interests of a creditor of the debtor, or
  - (b) that a material irregularity occurred in relation to the arrangements made under section 263B(2).
- (2) An order under subsection (1) may be made only on the application of—
  - (a) the debtor,
  - (b) a person who was entitled to participate in the arrangements made under section 263B(2),
  - (c) the trustee of the bankrupt's estate, or
  - (d) the official receiver.
- (3) An application under subsection (2) may not be made after the end of the period of 28 days beginning with the date on which the official receiver [<sup>F44</sup>notifies the Secretary of State] under section 263C.
- (4) But a creditor who was not made aware of the arrangements under section 263B(2) at the time when they were made may make an application under subsection (2) during the period of 28 days beginning with the date on which he becomes aware of the voluntary arrangement.]

#### Textual Amendments

- F43** Ss. 263A-263G and cross-heading inserted (1.4.2004) by [2002 c. 40, ss. 264\(1\), 279, Sch. 22 para. 2](#) (with [s. 249\(6\)](#)); [S.I. 2003/2093, art. 2\(2\)](#), Sch. 2 (subject to [arts. 3-8](#) (as amended by [S.I. 2003/2332, art. 2](#)))
- F44** Words in s. 263F(3) substituted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\), art. 9\(3\)](#)

### 263G Offences

- (1) Section 262A shall have effect in relation to obtaining approval to a proposal for a voluntary arrangement under section 263D.



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- (2) Section 262B shall have effect in relation to a voluntary arrangement which has effect by virtue of section 263D(2) (for which purposes the words “by a creditors’ meeting summoned under section 257” shall be disregarded).]

**Status:**

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**Changes to legislation:**

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