

Status: Point in time view as at 26/05/2015.

Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 9

ABOLITION OF REQUIREMENTS TO HOLD MEETINGS; OPTED-OUT CREDITORS

PART 2

INDIVIDUAL INSOLVENCY

Introductory

60 The Insolvency Act 1986 is amended in accordance with this Part of this Schedule.

Commencement Information

II Sch. 9 para. 60 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

Individual voluntary arrangements

- 61 (1) Section 256 (nominee's report on debtor's proposal) is amended as follows.
- (2) At the end of subsection (1)(a) insert “ and ”.
- (3) In subsection (1)(aa)—
- (a) for “a meeting of the debtor's creditors should be summoned to” substitute “ the debtor's creditors should ”;
 - (b) omit “, and”.
- (4) Omit subsection (1)(b).
- (5) In subsection (5) for “a meeting of the debtor's creditors should be summoned to” substitute “ the debtor's creditors should ”.
- (6) In subsection (6), for “a meeting of the debtor's creditors to be summoned” substitute “ the debtor's creditors ”.

Commencement Information

I2 Sch. 9 para. 61 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 62 (1) Section 256A (nominee's report on debtor's proposal) is amended as follows.
- (2) At the end of subsection (3)(a) insert “ and ”.
- (3) In subsection (3)(b)—

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(a) for “a meeting of the debtor's creditors should be summoned to” substitute “ the debtor's creditors should ”;

(b) omit “, and”.

(4) Omit subsection (3)(c).

Commencement Information

I3 Sch. 9 para. 62 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

63 In the heading before section 257, for “meeting” substitute “ decisions ”.

Commencement Information

I4 Sch. 9 para. 63 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

64 (1) Section 257 (summoning of creditors' meeting) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) This section applies where it has been reported to the court under section 256 or to the debtor's creditors under section 256A that the debtor's creditors should consider the debtor's proposal.

(2) The nominee (or the nominee's replacement under section 256(3) or 256A(4)) must seek a decision from the debtor's creditors as to whether they approve the proposed voluntary arrangement (unless, in the case of a report to which section 256 applies, the court otherwise directs).

(2A) The decision is to be made by a creditors' decision procedure.

(2B) Notice of the creditors' decision procedure must be given to every creditor of the debtor of whose claim and address the nominee (or the nominee's replacement) is aware.”

(3) In subsection (3)(b), for “meeting” substitute “creditors' decision procedure”.

(4) For the heading substitute “ Consideration of debtor's proposal by creditors ”.

Commencement Information

I5 Sch. 9 para. 64 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

65 (1) Section 258 (decision of creditors' meeting) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies where under section 257 the debtor's creditors are asked to decide whether to approve the proposed voluntary arrangement.”

(3) In subsections (2), (4) and (5) for “meeting” (in each place) substitute “ creditors ”.

(4) In subsection (2)—

(a) after “with” insert “ or without ”;

(b) for “do so” insert “ approve it with modifications ”.

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(5) Omit subsection (6).

(6) For the heading substitute “ Approval of debtor's proposal ”.

Commencement Information

I6 Sch. 9 para. 65 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

66 (1) Section 259 (report of decisions to court) is amended as follows.

(2) For subsection (1) substitute—

“(1) When pursuant to section 257 the debtor's creditors have decided whether to approve the debtor's proposal (with or without modifications), the nominee (or the nominee's replacement under section 256(3) or 256A(4)) must—

- (a) give notice of the creditors' decision to such persons as may be prescribed, and
- (b) where the creditors considered the debtor's proposal pursuant to a report to the court under section 256(1)(aa), report the creditors' decision to the court.”

(3) In subsection (2), for “meeting has” substitute “ creditors have ”.

Commencement Information

I7 Sch. 9 para. 66 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

67 (1) Section 260 (effect of approval) is amended as follows.

(2) In subsection (1) for “the meeting summoned under section 257 approves” substitute “ pursuant to section 257 the debtor's creditors decide to approve ”.

(3) In subsection (2)—

- (a) in paragraph (a) for “at the meeting” substitute “ at the time the creditors decided to approve the proposal ”;
- (b) in paragraph (b)(i) for the words from “at the” to “it” substitute “in the creditors' decision procedure by which the decision to approve the proposal was made”.

(4) In subsection (4) for “meeting” substitute “ decision ”.

Commencement Information

I8 Sch. 9 para. 67 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

68 (1) Section 261 (additional effect on undischarged bankrupt) is amended as follows.

(2) In subsection (1)(a), for “the creditors' meeting summoned under section 257 approves” substitute “ pursuant to section 257 the debtor's creditors decide to approve ”.

(3) In subsection (3)(a), for “decision of the creditors' meeting” substitute “creditors' decision”.

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Commencement Information

I9 Sch. 9 para. 68 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 69 (1) Section 262 (challenge of meeting's decision) is amended as follows.
- (2) In subsection (1)(a), for “a creditors' meeting summoned under” substitute “ a decision of the debtor's creditors pursuant to ”.
- (3) In subsection (1)(b), for “at or in relation to such a meeting” substitute “in relation to a creditors' decision procedure instigated under that section”.
- (4) In subsection (2)(b)(i), for “at the creditors' meeting” substitute “in the creditors' decision procedure”.
- (5) In subsection (3)(b)—
- (a) for “creditors' meeting” substitute “creditors' decision procedure”;
 - (b) for “the meeting had taken place” substitute “ a decision as to whether to approve the proposed voluntary arrangement had been made ”.
- (6) In subsection (4)(a) for “the meeting” substitute “ a decision of the debtor's creditors ”.
- (7) For subsection (4)(b) substitute—
- “(b) direct any person to seek a decision from the debtor's creditors (using a creditors' decision procedure) as to whether they approve—
 - (i) any revised proposal the debtor may make, or
 - (ii) in a case falling within subsection (1)(b), the debtor's original proposal.”
- (8) In subsection (5)—
- (a) for “for the summoning of a meeting to consider” substitute “ in relation to ”;
 - (b) for “given at the previous meeting” substitute “ previously given by the debtor's creditors ”.
- (9) In subsection (7), for “meeting”, in each place, substitute “ decision ”.
- (10) In subsection (8), for the words from “an approval” to the end substitute “the approval of a voluntary arrangement by a decision of the debtor's creditors pursuant to section 257 is not invalidated by any irregularity in relation to the creditors' decision procedure by which the decision was made.”
- (11) In the heading for “meeting's” substitute “creditors”.

Commencement Information

I10 Sch. 9 para. 69 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 70 In section 262B(1) (prosecution of delinquent debtors), for “creditors' meeting summoned under” substitute “ decision of the debtor's creditors pursuant to ”.

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Commencement Information

I11 Sch. 9 para. 70 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 71 In section 262C (arrangements coming to an end prematurely), for “creditors' meeting summoned under” substitute “ decision of the debtor's creditors pursuant to ”.

Commencement Information

I12 Sch. 9 para. 71 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 72 In section 263(1) (implementation and supervision of approved voluntary arrangement), for “creditors' meeting summoned under” substitute “ decision of the debtor's creditors pursuant to ”.

Commencement Information

I13 Sch. 9 para. 72 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

Bankruptcy

- 73 In section 276(1)(b)(ii) (default in connection with voluntary arrangement) for “at or in connection with a meeting summoned” substitute “in connection with a creditors' decision procedure instigated”.

Commencement Information

I14 Sch. 9 para. 73 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 74 In section 283(4)(a) (definition of bankrupt's estate), for the words from “a meeting” to “held” substitute “ the trustee of that estate has vacated office under section 298(8) ”.

Commencement Information

I15 Sch. 9 para. 74 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 75 In section 287(3)(c) (powers of interim receiver), for “summon a general meeting of” substitute “ seek a decision on a matter from ”.

Commencement Information

I16 Sch. 9 para. 75 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 76 In section 296(5) (trustee to give notice relating to creditors' committees), for paragraphs (a) and (b) substitute “explain the procedure for establishing a creditors' committee under section 301.”

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Commencement Information

I17 Sch. 9 para. 76 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 77 (1) Section 298 (trustee's vacation of office) is amended as follows.
- (2) In subsection (1), for “general meeting of the bankrupt's creditors summoned” substitute “decision of the bankrupt's creditors made by a creditors' decision procedure instigated”.
- (3) In subsection (4)—
- (a) for “general meeting of the bankrupt's creditors shall be summoned” substitute “creditors' decision procedure may be instigated”;
- (b) for “replacing” substitute “ removing ”;
- (c) in paragraph (c)—
- (i) omit “the meeting is requested by”;
- (ii) after “bankrupt's creditors” insert “ so requests, ”.
- (4) After subsection (4) insert—
- “(4A) Where the bankrupt's creditors decide to remove a trustee, they may in accordance with the rules appoint another person as trustee in his place.
- (4B) Where the decision to remove a trustee is made under subsection (4), the decision does not take effect until the bankrupt's creditors appoint another person as trustee in his place.”
- (5) In subsection (8), for the words from “a final” to the end substitute “ the trustee has given notice under section 331(2). ”
- (6) After subsection (8) insert—
- “(8A) A notice under subsection (8)—
- (a) must not be given before the end of the period prescribed by the rules as the period within which the bankrupt's creditors may object to the trustee's release, and
- (b) must state whether any of the bankrupt's creditors objected to the trustee's release.”

Commencement Information

I18 Sch. 9 para. 77 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 78 (1) Section 299 (release of trustee) is amended as follows.
- (2) In subsection (1)(a), omit “a general meeting of”.
- (3) In subsection (3)(a)—
- (a) for the words from “case” to “died” substitute “ following cases ”;
- (b) after “hold office” insert “—
- (i) the person has been removed from office by a decision of the bankrupt's creditors and the creditors have not decided against his release,

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(ii) the person has died;”.

(4) For subsection (3)(b) substitute—

“(b) in the following cases, such time as the Secretary of State may, on an application by the person, determine—

- (i) the person has been removed from office by a decision of the bankrupt's creditors and the creditors have decided against his release,
- (ii) the person has been removed from office by the court or by the Secretary of State,
- (iii) the person has vacated office under section 298(6);”.

(5) In subsection (3)(d), for paragraphs (i) and (ii) substitute—

- “(i) if any of the bankrupt's creditors objected to the person's release before the end of the period for so objecting prescribed by the rules, such time as the Secretary of State may, on an application by that person, determine, and
- (ii) otherwise, the time at which the person vacated office.”

(6) After subsection (3) insert—

“(3A) Where the person is removed from office by a decision of the bankrupt's creditors, any decision of the bankrupt's creditors as to whether the person should have his release must be made by a creditors' decision procedure.”

Commencement Information

I19 Sch. 9 para. 78 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

79 (1) Section 300 (vacancy in office of trustee) is amended as follows.

(2) For subsection (3) substitute—

“(3) The official receiver may ask the bankrupt's creditors to appoint a person as trustee, and must do so if so requested by not less than one tenth in value of the bankrupt's creditors.

(3A) If the official receiver makes such a request the bankrupt's creditors may in accordance with the rules appoint a person as trustee.”

(3) In subsection (4) for the words from “summoned” to “vacancy” substitute “ asked, and is not proposing to ask, the bankrupt's creditors to appoint a person as trustee ”.

(4) In subsection (8) for the words from “holding” to “331” substitute “ vacation of office by the trustee under section 298(8) ”.

Commencement Information

I20 Sch. 9 para. 79 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

80 (1) Section 301 (creditors' committees) is amended as follows.

(2) In subsection (1), for the words from “general” to “otherwise)” substitute “ bankrupt's creditors ”.

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(3) In subsection (2)—

- (a) for “A general meeting of the” substitute “ The ”;
- (b) for “an appointment made by that meeting” substitute “ the appointment ”.

Commencement Information

I21 Sch. 9 para. 80 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 81 In section 314(7) (trustee's power and duty to summon creditors' meeting)—
- (a) for “summon a general meeting of” substitute “ seek a decision on a matter from ”;
 - (b) for “summon such a meeting” substitute “ seek a decision on a matter ”.

Commencement Information

I22 Sch. 9 para. 81 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 82 In section 330 (final distribution), after subsection (1) insert—
- “(1A) A notice under subsection (1)(b) need not be given to opted-out creditors.”

Commencement Information

I23 Sch. 9 para. 82 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 83 (1) Section 331 (final meeting) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) The trustee must give the bankrupt's creditors (other than opted-out creditors) notice that it appears to the trustee that the administration of the bankrupt's estate is for practical purposes complete.
- (2A) The notice must—
- (a) be accompanied by a report of the trustee's administration of the bankrupt's estate;
 - (b) explain the effect of section 299(3)(d) and how the creditors may object to the trustee's release.”
- (3) Omit subsections (3) and (4).
- (4) In the heading, for “meeting” substitute “ report ”.

Commencement Information

I24 Sch. 9 para. 83 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 84 In section 332(2) (bankrupt's home), for “summon a meeting under section 331” substitute “ give notice under section 331(2) ”.

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Commencement Information

I25 Sch. 9 para. 84 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 85 In section 356(2)(c) (offence of making false statements)—
- (a) for “at any meeting of his creditors” substitute “in connection with any creditors' decision procedure or deemed consent procedure”;
 - (b) for “at such a meeting” substitute “ in connection with such a procedure ”.

Commencement Information

I26 Sch. 9 para. 85 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 86 In Schedule 9, after paragraph 12 insert—
- “12A Provision about how a bankrupt's creditors may appoint a person as trustee.”

Commencement Information

I27 Sch. 9 para. 86 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

- 87 In paragraph 13 of Schedule 9 (creditors' committee)—
- (a) after “to the” insert “ establishment, ”;
 - (b) for “established under” substitute “ provided for by ”.

Commencement Information

I28 Sch. 9 para. 87 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

Other provision

- 88 Omit section 379A (remote attendance at meetings) and the heading before it.

Commencement Information

I29 Sch. 9 para. 88 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)

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