



2010 CHAPTER 16

**Conditions for making a debt relief order**

2. After Schedule 2 to the Order of 1989 (powers of liquidator in a winding up) insert—

“SCHEDULE 2ZA

Conditions for making a debt relief order

PART 1

CONDITIONS WHICH MUST BE MET

*Connection with Northern Ireland*

1.—(1) The debtor—

- (a) is domiciled in Northern Ireland on the application date; or
- (b) at any time in the 3 years immediately preceding that date—
  - (i) was ordinarily resident, or had a place of residence, in Northern Ireland; or
  - (ii) carried on business in Northern Ireland.

(2) The reference in sub-paragraph (1)(b)(ii) to the debtor carrying on business includes—

- (a) the carrying on of business by a firm or partnership of which he is a member;
- (b) the carrying on of business by an agent or manager for him or for such a firm or partnership.

*Debtor's previous insolvency history*

2. The debtor is not, on the determination date—
  - (a) an undischarged bankrupt;
  - (b) subject to an interim order or voluntary arrangement under Chapter 2 of Part 8; or
  - (c) subject to a bankruptcy restrictions order or a debt relief restrictions order.
3. A debtor's petition for the debtor's bankruptcy under Part 9—
  - (a) has not been presented by the debtor before the determination date;
  - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
  - (c) has been so presented and proceedings in relation to the petition remain before the High Court at that date, but the Court has referred the debtor under Article 248A(2) for the purposes of making an application for a debt relief order.
4. A creditor's petition for the debtor's bankruptcy under Part 9—
  - (a) has not been presented against the debtor at any time before the determination date;
  - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
  - (c) has been so presented and proceedings in relation to the petition remain before the Court at that date, but the person who presented the petition has consented to the making of an application for a debt relief order.
5. A debt relief order has not been made in relation to the debtor in the period of 6 years ending with the determination date.

*Limit on debtor's overall indebtedness*

6.—(1) The total amount of the debtor's debts on the determination date, other than unliquidated debts and excluded debts, does not exceed the amount specified by order under Article 362(1)(b).

(2) For this purpose an unliquidated debt is a debt that is not for a liquidated sum payable to a creditor either immediately or at some future certain time.

*Limit on debtor's monthly surplus income*

7.—(1) The debtor's monthly surplus income (if any) on the determination date does not exceed the amount specified by order under Article 362(1)(b).

(2) For this purpose “monthly surplus income” is the amount by which a person’s monthly income exceeds the amount necessary for the reasonable domestic needs of himself and his family.

(3) The rules may—

- (a) make provision as to how the debtor’s monthly surplus income is to be determined;
- (b) provide that particular descriptions of income are to be excluded for the purposes of this paragraph.

*Limit on value of debtor’s property*

**8.—**(1) The total value of the debtor’s property on the determination date does not exceed the amount specified by order under Article 362(1)(b).

(2) The rules may—

- (a) make provision as to how the value of a person’s property is to be determined;
- (b) provide that particular descriptions of property are to be excluded for the purposes of this paragraph.

## PART 2

### OTHER CONDITIONS

**9.—**(1) The debtor has not entered into a transaction with any person at an undervalue during the period between—

- (a) the start of the period of 2 years ending with the application date; and
- (b) the determination date.

(2) For this purpose a debtor enters into a transaction with a person at an undervalue if—

- (a) he makes a gift to that person or he otherwise enters into a transaction with that person on terms that provide for him to receive no consideration;
- (b) he enters into a transaction with that person in consideration of marriage or the formation of a civil partnership; or
- (c) he enters into a transaction with that person for a consideration the value of which, in money or money’s worth, is significantly less than the value, in money or money’s worth, of the consideration provided by the individual.

**10.—**(1) The debtor has not given a preference to any person during the period between—

- (a) the start of the period of 2 years ending with the application date; and
- (b) the determination date.

(2) For this purpose a debtor gives a preference to a person if—

- (a) that person is one of the debtor's creditors to whom a qualifying debt is owed or is a surety or guarantor for any such debt, and
- (b) the debtor does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event that a debt relief order is made in relation to the debtor, will be better than the position he would have been in if that thing had not been done.”.