



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART 7A

DEBT RELIEF ORDERS

Textual Amendments

- F1** Pt. 7A inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(1), 148(5), Sch. 17; S.I. 2009/382, art. 2

Preliminary

251A Debt relief orders

- (1) An individual who is unable to pay his debts may apply for an order under this Part (“a debt relief order”) to be made in respect of his qualifying debts.
- (2) In this Part “qualifying debt” means (subject to subsection (3)) a debt which—
 - (a) is for a liquidated sum payable either immediately or at some certain future time; and
 - (b) is not an excluded debt.
- (3) A debt is not a qualifying debt to the extent that it is secured.
- (4) In this Part “excluded debt” means a debt of any description prescribed for the purposes of this subsection.

Applications for a debt relief order

251B Making of application

- (1) An application for a debt relief order must be made to the official receiver through an approved intermediary.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The application must include—
- (a) a list of the debts to which the debtor is subject at the date of the application, specifying the amount of each debt (including any interest, penalty or other sum that has become payable in relation to that debt on or before that date) and the creditor to whom it is owed;
 - (b) details of any security held in respect of any of those debts; and
 - (c) such other information about the debtor's affairs (including his creditors, debts and liabilities and his income and assets) as may be prescribed.
- (3) The rules may make further provision as to—
- (a) the form of an application for a debt relief order;
 - (b) the manner in which an application is to be made; and
 - (c) information and documents to be supplied in support of an application.
- (4) For the purposes of this Part an application is not to be regarded as having been made until—
- (a) the application has been submitted to the official receiver; and
 - (b) any fee required in connection with the application by an order under section 415 has been paid to such person as the order may specify.

251C Duty of official receiver to consider and determine application

- (1) This section applies where an application for a debt relief order is made.
- (2) The official receiver may stay consideration of the application until he has received answers to any queries raised with the debtor in relation to anything connected with the application.
- (3) The official receiver must determine the application by—
- (a) deciding whether to refuse the application;
 - (b) if he does not refuse it, by making a debt relief order in relation to the specified debts he is satisfied were qualifying debts of the debtor at the application date;
- but he may only refuse the application if he is authorised or required to do so by any of the following provisions of this section.
- (4) The official receiver may refuse the application if he considers that—
- (a) the application does not meet all the requirements imposed by or under section 251B;
 - (b) any queries raised with the debtor have not been answered to the satisfaction of the official receiver within such time as he may specify when they are raised;
 - (c) the debtor has made any false representation or omission in making the application or on supplying any information or documents in support of it.
- (5) The official receiver must refuse the application if he is not satisfied that—
- (a) the debtor is an individual who is unable to pay his debts;
 - (b) at least one of the specified debts was a qualifying debt of the debtor at the application date;
 - (c) each of the conditions set out in Part 1 of Schedule 4ZA is met.
- (6) The official receiver may refuse the application if he is not satisfied that each condition specified in Part 2 of Schedule 4ZA is met.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) If the official receiver refuses an application he must give reasons for his refusal to the debtor in the prescribed manner.
- (8) In this section “specified debt” means a debt specified in the application.

251D Presumptions applicable to the determination of an application

- (1) The following presumptions are to apply to the determination of an application for a debt relief order.
- (2) The official receiver must presume that the debtor is an individual who is unable to pay his debts at the determination date if—
 - (a) that appears to the official receiver to be the case at the application date from the information supplied in the application and he has no reason to believe that the information supplied is incomplete or inaccurate; and
 - (b) he has no reason to believe that, by virtue of a change in the debtor's financial circumstances since the application date, the debtor may be able to pay his debts.
- (3) The official receiver must presume that a specified debt (of the amount specified in the application and owed to the creditor so specified) is a qualifying debt at the application date if—
 - (a) that appears to him to be the case from the information supplied in the application; and
 - (b) he has no reason to believe that the information supplied is incomplete or inaccurate.
- (4) The official receiver must presume that the condition specified in paragraph 1 of Schedule 4ZA is met if—
 - (a) that appears to him to be the case from the information supplied in the application;
 - (b) any prescribed verification checks relating to the condition have been made; and
 - (c) he has no reason to believe that the information supplied is incomplete or inaccurate.
- (5) The official receiver must presume that any other condition specified in Part 1 or 2 of Schedule 4ZA is met if—
 - (a) that appears to him to have been the case as at the application date from the information supplied in the application and he has no reason to believe that the information supplied is incomplete or inaccurate;
 - (b) any prescribed verification checks relating to the condition have been made; and
 - (c) he has no reason to believe that, by virtue of a change in circumstances since the application date, the condition may no longer be met.
- (6) References in this section to information supplied in the application include information supplied to the official receiver in support of the application.
- (7) In this section “specified debt” means a debt specified in the application.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Making and effect of debt relief order

251E Making of debt relief orders

- (1) This section applies where the official receiver makes a debt relief order on determining an application under section 251C.
- (2) The order must be made in the prescribed form.
- (3) The order must include a list of the debts which the official receiver is satisfied were qualifying debts of the debtor at the application date, specifying the amount of the debt at that time and the creditor to whom it was then owed.
- (4) The official receiver must—
 - (a) give a copy of the order to the debtor; and
 - (b) make an entry for the order in the register containing the prescribed information about the order or the debtor.
- (5) The rules may make provision as to other steps to be taken by the official receiver or the debtor on the making of the order.
- (6) Those steps may include in particular notifying each creditor to whom a qualifying debt specified in the order is owed of—
 - (a) the making of the order and its effect,
 - (b) the grounds on which a creditor may object under section 251K, and
 - (c) any other prescribed information.
- (7) In this Part the date on which an entry relating to the making of a debt relief order is first made in the register is referred to as “the effective date”.

251F Effect of debt relief order on other debt management arrangements

- (1) This section applies if—
 - (a) a debt relief order is made, and
 - (b) immediately before the order is made, other debt management arrangements are in force in respect of the debtor.
- (2) The other debt management arrangements cease to be in force when the debt relief order is made.
- (3) In this section “other debt management arrangements” means—
 - (a) an administration order under Part 6 of the County Courts Act 1984;
 - (b) an enforcement restriction order under Part 6A of that Act;
 - (c) a debt repayment plan arranged in accordance with a debt management scheme that is approved under Chapter 4 of Part 5 of the Tribunals, Courts and Enforcement Act 2007.

251G Moratorium from qualifying debts

- (1) A moratorium commences on the effective date for a debt relief order in relation to each qualifying debt specified in the order (“a specified qualifying debt”).
- (2) During the moratorium, the creditor to whom a specified qualifying debt is owed—

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) has no remedy in respect of the debt, and
 - (b) may not—
 - (i) commence a creditor's petition in respect of the debt, or
 - (ii) otherwise commence any action or other legal proceedings against the debtor for the debt,except with the permission of the court and on such terms as the court may impose.
- (3) If on the effective date a creditor to whom a specified qualifying debt is owed has any such petition, action or other proceeding as mentioned in subsection (2)(b) pending in any court, the court may—
- (a) stay the proceedings on the petition, action or other proceedings (as the case may be), or
 - (b) allow them to continue on such terms as the court thinks fit.
- (4) In subsection (2)(a) and (b) references to the debt include a reference to any interest, penalty or other sum that becomes payable in relation to that debt after the application date.
- (5) Nothing in this section affects the right of a secured creditor of the debtor to enforce his security.

251H The moratorium period

- (1) The moratorium relating to the qualifying debts specified in a debt relief order continues for the period of one year beginning with the effective date for the order, unless—
- (a) the moratorium terminates early; or
 - (b) the moratorium period is extended by the official receiver under this section or by the court under section 251M.
- (2) The official receiver may only extend the moratorium period for the purpose of—
- (a) carrying out or completing an investigation under section 251K;
 - (b) taking any action he considers necessary (whether as a result of an investigation or otherwise) in relation to the order; or
 - (c) in a case where he has decided to revoke the order, providing the debtor with the opportunity to make arrangements for making payments towards his debts.
- (3) The official receiver may not extend the moratorium period for the purpose mentioned in subsection (2)(a) without the permission of the court.
- (4) The official receiver may not extend the moratorium period beyond the end of the period of three months beginning after the end of the initial period of one year mentioned in subsection (1).
- (5) The moratorium period may be extended more than once, but any extension (whether by the official receiver or by the court) must be made before the moratorium would otherwise end.
- (6) References in this Part to a moratorium terminating early are to its terminating before the end of what would otherwise be the moratorium period, whether on the revocation of the order or by virtue of any other enactment.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

251I Discharge from qualifying debts

- (1) Subject as follows, at the end of the moratorium applicable to a debt relief order the debtor is discharged from all the qualifying debts specified in the order (including all interest, penalties and other sums which may have become payable in relation to those debts since the application date).
- (2) Subsection (1) does not apply if the moratorium terminates early.
- (3) Subsection (1) does not apply in relation to any qualifying debt which the debtor incurred in respect of any fraud or fraudulent breach of trust to which the debtor was a party.
- (4) The discharge of the debtor under subsection (1) does not release any other person from—
 - (a) any liability (whether as partner or co-trustee of the debtor or otherwise) from which the debtor is released by the discharge; or
 - (b) any liability as surety for the debtor or as a person in the nature of such a surety.
- (5) If the order is revoked by the court under section 251M after the end of the moratorium period, the qualifying debts specified in the order shall (so far as practicable) be treated as though subsection (1) had never applied to them.

Duties of debtor

251J Providing assistance to official receiver etc

- (1) The duties in this section apply to a debtor at any time after the making of an application by him for a debt relief order.
- (2) The debtor must—
 - (a) give to the official receiver such information as to his affairs,
 - (b) attend on the official receiver at such times, and
 - (c) do all such other things,
 as the official receiver may reasonably require for the purpose of carrying out his functions in relation to the application or, as the case may be, the debt relief order made as a result of the application.
- (3) The debtor must notify the official receiver as soon as reasonably practicable if he becomes aware of—
 - (a) any error in, or omission from, the information supplied to the official receiver in, or in support of, the application;
 - (b) any change in his circumstances between the application date and the determination date that would affect (or would have affected) the determination of the application.
- (4) The duties under subsections (2) and (3) apply after (as well as before) the determination of the application, for as long as the official receiver is able to exercise functions of the kind mentioned in subsection (2).
- (5) If a debt relief order is made as a result of the application, the debtor must notify the official receiver as soon as reasonably practicable if—
 - (a) there is an increase in his income during the moratorium period applicable to the order;

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) he acquires any property or any property is devolved upon him during that period;
 - (c) he becomes aware of any error in or omission from any information supplied by him to the official receiver after the determination date.
- (6) A notification under subsection (3) or (5) must give the prescribed particulars (if any) of the matter being notified.

Objections, investigations and revocation

251K Objections and investigations

- (1) Any person specified in a debt relief order as a creditor to whom a specified qualifying debt is owed may object to—
- (a) the making of the order;
 - (b) the inclusion of the debt in the list of the debtor's qualifying debts; or
 - (c) the details of the debt specified in the order.
- (2) An objection under subsection (1) must be—
- (a) made during the moratorium period relating to the order and within the prescribed period for objections;
 - (b) made to the official receiver in the prescribed manner;
 - (c) based on a prescribed ground;
 - (d) supported by any information and documents as may be prescribed;
- and the prescribed period mentioned in paragraph (a) must not be less than 28 days after the creditor in question has been notified of the making of the order.
- (3) The official receiver must consider every objection made to him under this section.
- (4) The official receiver may—
- (a) as part of his consideration of an objection, or
 - (b) on his own initiative,
- carry out an investigation of any matter that appears to the official receiver to be relevant to the making of any decision mentioned in subsection (5) in relation to a debt relief order or the debtor.
- (5) The decisions to which an investigation may be directed are—
- (a) whether the order should be revoked or amended under section 251L;
 - (b) whether an application should be made to the court under section 251M; or
 - (c) whether any other steps should be taken in relation to the debtor.
- (6) The power to carry out an investigation under this section is exercisable after (as well as during) the moratorium relating to the order.
- (7) The official receiver may require any person to give him such information and assistance as he may reasonably require in connection with an investigation under this section.
- (8) Subject to anything prescribed in the rules as to the procedure to be followed in carrying out an investigation under this section, an investigation may be carried out by the official receiver in such manner as he thinks fit.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

251L Power of official receiver to revoke or amend a debt relief order

- (1) The official receiver may revoke or amend a debt relief order during the applicable moratorium period in the circumstances provided for by this section.
- (2) The official receiver may revoke the order on the ground that—
 - (a) any information supplied to him by the debtor—
 - (i) in, or in support of, the application, or
 - (ii) after the determination date,was incomplete, incorrect or otherwise misleading;
 - (b) the debtor has failed to comply with a duty under section 251J;
 - (c) a bankruptcy order has been made in relation to the debtor; or
 - (d) the debtor has made a proposal under Part 8 (or has notified the official receiver of his intention to do so).
- (3) The official receiver may revoke the order on the ground that he should not have been satisfied—
 - (a) that the debts specified in the order were qualifying debts of the debtor as at the application date;
 - (b) that the conditions specified in Part 1 of Schedule 4ZA were met;
 - (c) that the conditions specified in Part 2 of that Schedule were met or that any failure to meet such a condition did not prevent his making the order.
- (4) The official receiver may revoke the order on the ground that either or both of the conditions in paragraphs 7 and 8 of Schedule 4ZA (monthly surplus income and property) are not met at any time after the order was made.

For this purpose those paragraphs are to be read as if references to the determination date were references to the time in question.
- (5) Where the official receiver decides to revoke the order, he may revoke it either—
 - (a) with immediate effect, or
 - (b) with effect from such date (not more than three months after the date of the decision) as he may specify.
- (6) In considering when the revocation should take effect the official receiver must consider (in the light of the grounds on which the decision to revoke was made and all the other circumstances of the case) whether the debtor ought to be given the opportunity to make arrangements for making payments towards his debts.
- (7) If the order has been revoked with effect from a specified date the official receiver may, if he thinks it appropriate to do so at any time before that date, revoke the order with immediate effect.
- (8) The official receiver may amend a debt relief order for the purpose of correcting an error in or omission from anything specified in the order.
- (9) But subsection (8) does not permit the official receiver to add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.
- (10) The rules may make further provision as to the procedure to be followed by the official receiver in the exercise of his powers under this section.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Role of the court

251M Powers of court in relation to debt relief orders

- (1) Any person may make an application to the court if he is dissatisfied by any act, omission or decision of the official receiver in connection with a debt relief order or an application for such an order.
- (2) The official receiver may make an application to the court for directions or an order in relation to any matter arising in connection with a debt relief order or an application for such an order.
- (3) The matters referred to in subsection (2) include, among other things, matters relating to the debtor's compliance with any duty arising under section 251J.
- (4) An application under this section may, subject to anything in the rules, be made at any time.
- (5) The court may extend the moratorium period applicable to a debt relief order for the purposes of determining an application under this section.
- (6) On an application under this section the court may dismiss the application or do one or more of the following—
 - (a) quash the whole or part of any act or decision of the official receiver;
 - (b) give the official receiver directions (including a direction that he reconsider any matter in relation to which his act or decision has been quashed under paragraph (a));
 - (c) make an order for the enforcement of any obligation on the debtor arising by virtue of a duty under section 251J;
 - (d) extend the moratorium period applicable to the debt relief order;
 - (e) make an order revoking or amending the debt relief order;
 - (f) make an order under section 251N; or
 - (g) make such other order as the court thinks fit.
- (7) An order under subsection (6)(e) for the revocation of a debt relief order—
 - (a) may be made during the moratorium period applicable to the debt relief order or at any time after that period has ended;
 - (b) may be made on the court's own motion if the court has made a bankruptcy order in relation to the debtor during that period;
 - (c) may provide for the revocation of the order to take effect on such terms and at such a time as the court may specify.
- (8) An order under subsection (6)(e) for the amendment of a debt relief order may not add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.

251N Inquiry into debtor's dealings and property

- (1) An order under this section may be made by the court on the application of the official receiver.
- (2) An order under this section is an order summoning any of the following persons to appear before the court—

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the debtor;
 - (b) the debtor's spouse or former spouse or the debtor's civil partner or former civil partner;
 - (c) any person appearing to the court to be able to give information or assistance concerning the debtor or his dealings, affairs and property.
- (3) The court may require a person falling within subsection (2)(c)—
- (a) to provide a written account of his dealings with the debtor; or
 - (b) to produce any documents in his possession or under his control relating to the debtor or to the debtor's dealings, affairs or property.
- (4) Subsection (5) applies where a person fails without reasonable excuse to appear before the court when he is summoned to do so by an order under this section.
- (5) The court may cause a warrant to be issued to a constable or prescribed officer of the court—
- (a) for the arrest of that person, and
 - (b) for the seizure of any records or other documents in that person's possession.
- (6) The court may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until that person is brought before the court under the warrant or until such other time as the court may order.

Offences

2510 False representations and omissions

- (1) A person who makes an application for a debt relief order is guilty of an offence if he knowingly or recklessly makes any false representation or omission in making the application or providing any information or documents to the official receiver in support of the application.
- (2) A person who makes an application for a debt relief order is guilty of an offence if—
- (a) he intentionally fails to comply with a duty under section 251J(3) in connection with the application; or
 - (b) he knowingly or recklessly makes any false representation or omission in providing any information to the official receiver in connection with such a duty or otherwise in connection with the application.
- (3) It is immaterial for the purposes of an offence under subsection (1) or (2) whether or not a debt relief order is made as a result of the application.
- (4) A person in respect of whom a debt relief order is made is guilty of an offence if—
- (a) he intentionally fails to comply with a duty under section 251J(5) in connection with the order; or
 - (b) he knowingly or recklessly makes any false representation or omission in providing information to the official receiver in connection with such a duty or otherwise in connection with the performance by the official receiver of functions in relation to the order.
- (5) It is immaterial for the purposes of an offence under subsection (4)—
- (a) whether the offence is committed during or after the moratorium period; and

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) whether or not the order is revoked after the conduct constituting the offence takes place.

251P Concealment or falsification of documents

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if, during the moratorium period in relation to that order—
 - (a) he does not provide, at the request of the official receiver, all his books, papers and other records of which he has possession or control and which relate to his affairs;
 - (b) he prevents the production to the official receiver of any books, papers or other records relating to his affairs;
 - (c) he conceals, destroys, mutilates or falsifies, or causes or permits the concealment, destruction, mutilation or falsification of, any books, papers or other records relating his affairs;
 - (d) he makes, or causes or permits the making of, any false entries in any book, document or record relating to his affairs; or
 - (e) he disposes of, or alters or makes any omission in, or causes or permits the disposal, altering or making of any omission in, any book, document or record relating to his affairs.
- (2) A person in respect of whom a debt relief order is made is guilty of an offence if—
 - (a) he did anything falling within paragraphs (c) to (e) of subsection (1) during the period of 12 months ending with the application date; or
 - (b) he did anything falling within paragraphs (b) to (e) of subsection (1) after that date but before the effective date.
- (3) A person is not guilty of an offence under this section if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (4) In its application to a trading record subsection (2)(a) has effect as if the reference to 12 months were a reference to two years.
- (5) In subsection (4) “trading record” means a book, document or record which shows or explains the transactions or financial position of a person's business, including—
 - (a) a periodic record of cash paid and received,
 - (b) a statement of periodic stock-taking, and
 - (c) except in the case of goods sold by way of retail trade, a record of goods sold and purchased which identifies the buyer and seller or enables them to be identified.
- (6) It is immaterial for the purposes of an offence under this section whether or not the debt relief order in question is revoked after the conduct constituting the offence takes place (but no offence is committed under this section by virtue of conduct occurring after the order is revoked).

251Q Fraudulent disposal of property

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if he made or caused to be made any gift or transfer of his property during the period between—

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the start of the period of two years ending with the application date; and
 - (b) the end of the moratorium period.
- (2) The reference in subsection (1) to making a transfer of any property includes causing or conniving at the levying of any execution against that property.
- (3) A person is not guilty of an offence under this section if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (4) For the purposes of subsection (3) a person is to be taken to have proved that he had no such intent if—
- (a) sufficient evidence is adduced to raise an issue as to whether he had such intent; and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) It is immaterial for the purposes of this section whether or not the debt relief order in question is revoked after the conduct constituting an offence takes place (but no offence is committed by virtue of conduct occurring after the order is revoked).

251R Fraudulent dealing with property obtained on credit

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if during the relevant period he disposed of any property which he had obtained on credit and, at the time he disposed of it, had not paid for it.
- (2) Any other person is guilty of an offence if during the relevant period he acquired or received property from a person in respect of whom a debt relief order was made (the “debtor”) knowing or believing—
- (a) that the debtor owed money in respect of the property, and
 - (b) that the debtor did not intend, or was unlikely to be able, to pay the money he so owed.
- (3) In subsections (1) and (2) “relevant period” means the period between—
- (a) the start of the period of two years ending with the application date; and
 - (b) the determination date.
- (4) A person is not guilty of an offence under subsection (1) or (2) if the disposal, acquisition or receipt of the property was in the ordinary course of a business carried on by the debtor at the time of the disposal, acquisition or receipt.
- (5) In determining for the purposes of subsection (4) whether any property is disposed of, acquired or received in the ordinary course of a business carried on by the debtor, regard may be had, in particular, to the price paid for the property.
- (6) A person is not guilty of an offence under subsection (1) if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (7) In this section references to disposing of property include pawning or pledging it; and references to acquiring or receiving property shall be read accordingly.
- (8) It is immaterial for the purposes of this section whether or not the debt relief order in question is revoked after the conduct constituting an offence takes place (but no offence is committed by virtue of conduct occurring after the order is revoked).

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

251S Obtaining credit or engaging in business

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if, during the relevant period—
 - (a) he obtains credit (either alone or jointly with any other person) without giving the person from whom he obtains the credit the relevant information about his status; or
 - (b) he engages directly or indirectly in any business under a name other than that in which the order was made without disclosing to all persons with whom he enters into any business transaction the name in which the order was made.
- (2) For the purposes of subsection (1)(a) the relevant information about a person's status is the information that—
 - (a) a moratorium is in force in relation to the debt relief order,
 - (b) a debt relief restrictions order is in force in respect of him, or
 - (c) both a moratorium and a debt relief restrictions order is in force,as the case may be.
- (3) In subsection (1) “relevant period” means—
 - (a) the moratorium period relating to the debt relief order, or
 - (b) the period for which a debt relief restrictions order is in force in respect of the person in respect of whom the debt relief order is made,as the case may be.
- (4) Subsection (1)(a) does not apply if the amount of the credit is less than the prescribed amount (if any).
- (5) The reference in subsection (1)(a) to a person obtaining credit includes the following cases—
 - (a) where goods are bailed to him under a hire-purchase agreement, or agreed to be sold to him under a conditional sale agreement;
 - (b) where he is paid in advance (in money or otherwise) for the supply of goods or services.

251T Offences: supplementary

- (1) Proceedings for an offence under this Part may only be instituted by the Secretary of State or by or with the consent of the Director of Public Prosecutions.
- (2) It is not a defence in proceedings for an offence under this Part that anything relied on, in whole or in part, as constituting the offence was done outside England and Wales.
- (3) A person guilty of an offence under this Part is liable to imprisonment or a fine, or both (but see section 430).

Supplementary

251U Approved intermediaries

- (1) In this Part “approved intermediary” means an individual for the time being approved by a competent authority to act as an intermediary between a person wishing to make an application for a debt relief order and the official receiver.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In this section “competent authority” means a person or body for the time being designated by the Secretary of State for the purposes of granting approvals under this section.
- (3) Designation as a competent authority may be limited so as to permit the authority only to approve persons of a particular description.
- (4) The Secretary of State may by regulations make provision as to—
 - (a) the procedure for designating persons or bodies as competent authorities;
 - (b) descriptions of individuals who are ineligible to be approved under this section;
 - (c) the procedure for granting approvals under this section;
 - (d) the withdrawal of designations or approvals under this section;
 and provision made under paragraph (a) or (c) may include provision requiring the payment of fees.
- (5) The rules may make provision about the activities to be carried out by an approved intermediary in connection with an application for a debt relief order, which may in particular include—
 - (a) assisting the debtor in making the application;
 - (b) checking that the application has been properly completed;
 - (c) sending the application to the official receiver.
- (6) The rules may also make provision about other activities to be carried out by approved intermediaries.
- (7) An approved intermediary may not charge a debtor any fee in connection with an application for a debt relief order.
- (8) An approved intermediary is not liable to any person in damages for anything done or omitted to be done when acting (or purporting to act) as an approved intermediary in connection with a particular application by a debtor for a debt relief order.
- (9) Subsection (8) does not apply if the act or omission was in bad faith.
- (10) Regulations under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

251V Debt relief restrictions orders and undertakings

Schedule 4ZB (which makes provision about debt relief restrictions orders and debt relief restrictions undertakings) has effect.

251W Register of debt relief orders etc

The Secretary of State must maintain a register of matters relating to—

- (a) debt relief orders;
- (b) debt relief restrictions orders; and
- (c) debt relief restrictions undertakings.

Status: Point in time view as at 19/12/2018.

Changes to legislation: Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

251X Interpretation

(1) In this Part—

“the application date”, in relation to a debt relief order or an application for a debt relief order, means the date on which the application for the order is made to the official receiver;

“approved intermediary” has the meaning given in section 251U(1);

“debt relief order” means an order made by the official receiver under this Part;

“debtor” means—

- (a) in relation to an application for a debt relief order, the applicant; and
- (b) in relation to a debt relief order, the person in relation to whom the order is made;

“debt relief restrictions order” and “debt relief restrictions undertaking” means an order made, or an undertaking accepted, under Schedule 4ZB;

“the determination date”, in relation to a debt relief order or an application for a debt relief order, means the date on which the application for the order is determined by the official receiver;

“the effective date” has the meaning given in section 251E(7);

“excluded debt” is to be construed in accordance with section 251A;

“moratorium” and “moratorium period” are to be construed in accordance with sections 251G and 251H;

“qualifying debt”, in relation to a debtor, has the meaning given in section 251A(2);

“the register” means the register maintained under section 251W;

“specified qualifying debt” has the meaning given in section 251G(1).

(2) In this Part references to a creditor specified in a debt relief order as the person to whom a qualifying debt is owed by the debtor include a reference to any person to whom the right to claim the whole or any part of the debt has passed, by assignment or operation of law, after the date of the application for the order.]

Status:

Point in time view as at 19/12/2018.

Changes to legislation:

Insolvency Act 1986, Part 7A is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.