

Status: Point in time view as at 01/04/2001. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Insolvency Act 1986, Cross Heading: Applications for a debt relief order is up to date with all changes known to be in force on or before 04 August 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)



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART 7A

DEBT RELIEF ORDERS

VALID FROM 24/02/2009

[^{F1}Applications for a debt relief order

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

251B Making of application

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

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(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.

(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.

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- (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.]

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