



# Insolvency Act 1986

## 1986 CHAPTER 45

### [<sup>F1</sup>PART 7A

#### DEBT RELIEF ORDERS

#### *[<sup>F1</sup>Making and effect of 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

#### **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,

*Status: Point in time view as at 19/12/2018.*

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- (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—
- (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.

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## **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.

## **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.]

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