



# Insolvency Act 1986

## 1986 CHAPTER 45

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

#### DEBT RELIEF ORDERS

#### [<sup>F1</sup>Offences

#### 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

#### **251O 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

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- (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
  - (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

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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—
  - (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.

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- (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).

### **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.

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- (3) A person guilty of an offence under this Part is liable to imprisonment or a fine, or both (but see section 430).]

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