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Insolvency Act 1986

1986 CHAPTER 45

PART VIII

INDIVIDUAL VOLUNTARY ARRANGEMENTS

Consideration and implementation of debtor's proposal

258 Decisions of creditor's meeting.

- (1) A creditors' meeting summoned under section 257 shall decide whether to approve the proposed voluntary arrangement.
- (2) The meeting may approve the proposed voluntary arrangement with modifications, but shall not do so unless the debtor consents to each modification.
- (3) The modifications subject to which the proposed voluntary arrangement may be approved may include one conferring the functions proposed to be conferred on the nominee on another person qualified to act as an insolvency practitioner in relation to the debtor.

But they shall not include any modification by virtue of which the proposal ceases to be a proposal such as is mentioned in section 253.

- (4) The meeting shall not approve any proposal or modification which affects the right of a secured creditor of the debtor to enforce his security, except with the concurrence of the creditor concerned.
- (5) Subject as follows, the meeting shall not approve any proposal or modification under which—
 - (a) any preferential debt of the debtor is to be paid otherwise than in priority to such of his debts as are not preferential debts, or
 - (b) a preferential creditor of the debtor is to be paid an amount in respect of a preferential debt that bears to that debt a smaller proportion than is borne to another preferential debt by the amount that is to be paid in respect of that other debt.

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However, the meeting may approve such a proposal or modification with the concurrence of the preferential creditor concerned.

- (6) Subject as above, the meeting shall be conducted in accordance with the rules.
- (7) In this section “preferential debt” has the meaning given by section 386 in Part XII; and “preferential creditor” is to be construed accordingly.

Modifications etc. (not altering text)

C1 Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, Sch. I Pt. III

259 Report of decisions to court.

- (1) After the conclusion in accordance with the rules of the meeting summoned under section 257, the chairman of the meeting shall report the result of it to the court and, immediately after so reporting, shall give notice of the result of the meeting to such persons as may be prescribed.
- (2) If the report is that the meeting has declined (with or without modifications) to approve the debtor's proposal, the court may discharge any interim order which is in force in relation to the debtor.

Modifications etc. (not altering text)

C2 Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, Sch. I Pt. III

260 Effect of approval.

- (1) This section has effect where the meeting summoned under section 257 approves the proposed voluntary arrangement (with or without modifications).
- (2) The approved arrangement—
- (a) takes effect as if made by the debtor at the meeting, and
 - (b) binds every person who in accordance with the rules had notice of, and was entitled to vote at, the meeting (whether or not he was present or represented at it) as if he were a party to the arrangement.
- (3) The ^{M1}Deeds of Arrangement Act 1914 does not apply to the approved voluntary arrangement.
- (4) Any interim order in force in relation to the debtor immediately before the end of the period of 28 days beginning with the day on which the report with respect to the creditors' meeting was made to the court under section 259 ceases to have effect at the end of that period.

This subsection applies except to such extent as the court may direct for the purposes of any application under section 262 below.

- (5) Where proceedings on a bankruptcy petition have been stayed by an interim order which ceases to have effect under subsection (4), that petition is deemed, unless the court otherwise orders, to have been dismissed.

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Modifications etc. (not altering text)

C3 Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, Sch. I Pt. III

Marginal Citations

M1 1914 c. 47.

261 Effect where debtor an undischarged bankrupt.

- (1) Subject as follows, where the creditors' meeting summoned under section 257 approves the proposed voluntary arrangement (with or without modifications) and the debtor is an undischarged bankrupt, the court may do one or both of the following, namely—
 - (a) annul the bankruptcy order by which he was adjudged bankrupt;
 - (b) give such directions with respect to the conduct of the bankruptcy and the administration of the bankrupt's estate as it thinks appropriate for facilitating the implementation of the approved voluntary arrangement.
- (2) The court shall not annul a bankruptcy order under subsection (1)—
 - (a) at any time before the end of the period of 28 days beginning with the day on which the report of the creditor's meeting was made to the court under section 259, or
 - (b) at any time when an application under section 262 below, or an appeal in respect of such an application, is pending or at any time in the period within which such an appeal may be brought.

Modifications etc. (not altering text)

C4 Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, Sch. I Pt. III

^{F1}262 Challenge of meeting's decision.

- (1) Subject to this section, an application to the court may be made, by any of the persons specified below, on one or both of the following grounds, namely—
 - (a) that a voluntary arrangement approved by a creditors' meeting summoned under section 257 unfairly prejudices the interests of a creditor of the debtor;
 - (b) that there has been some material irregularity at or in relation to such a meeting.
- (2) The persons who may apply under this section are—
 - (a) the debtor;
 - (b) a person entitled, in accordance with the rules, to vote at the creditors' meeting;
 - (c) the nominee (or his replacement under section 256(3)(a) or 258(3)); and
 - (d) if the debtor is an undischarged bankrupt, the trustee of his estate or the official receiver.
- (3) An application under this section shall not be made after the end of the period of 28 days beginning with the day on which the report of the creditors' meeting was made to the court under section 259.

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- (4) Where on an application under this section the court is satisfied as to either of the grounds mentioned in subsection (1), it may do one or both of the following, namely—
 - (a) revoke or suspend any approval given by the meeting;
 - (b) give a direction to any person for the summoning of a further meeting of the debtor's creditors to consider any revised proposal he may make or, in a case falling within subsection (1)(b), to reconsider his original proposal.
- (5) Where at any time after giving a direction under subsection (4)(b) for the summoning of a meeting to consider a revised proposal the court is satisfied that the debtor does not intend to submit such a proposal, the court shall revoke the direction and revoke or suspend any approval given at the previous meeting.
- (6) Where the court gives a direction under subsection (4)(b), it may also give a direction continuing or, as the case may require, renewing, for such period as may be specified in the direction, the effect in relation to the debtor of any interim order.
- (7) In any case where the court, on an application made under this section with respect to a creditors' meeting, gives a direction under subsection (4)(b) or revokes or suspends an approval under subsection (4)(a) or (5), the court may give such supplemental directions as it thinks fit and, in particular, directions with respect to—
 - (a) things done since the meeting under any voluntary arrangement approved by the meeting, and
 - (b) such things done since the meeting as could not have been done if any interim order had been in force in relation to the debtor when they were done.
- (8) Except in pursuance of the preceding provisions of this section, an approval given at a creditors' meeting summoned under section 257 is not invalidated by any irregularity at or in relation to the meeting.

Textual Amendments

F1 S. 262 amended (1.12.2001) by 2000 c. 8, s. 357(5)(a); S.I. 2001/3538, art. 2(1)

Modifications etc. (not altering text)

C5 Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, Sch. I Pt. III

VALID FROM 01/01/2003

[^{F2}262A False representations etc.

- (1) If for the purpose of obtaining the approval of his creditors to a proposal for a voluntary arrangement, the debtor—
 - (a) makes any false representation, or
 - (b) fraudulently does, or omits to do, anything,
 he commits an offence.
- (2) Subsection (1) applies even if the proposal is not approved.
- (3) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.]

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Textual Amendments

- F2** S. 262A inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 12**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

VALID FROM 01/01/2003

^{F3}262B Prosecution of delinquent debtors.

- (1) This section applies where a voluntary arrangement approved by a creditors' meeting summoned under section 257 has taken effect.
- (2) If it appears to the nominee or supervisor that the debtor has been guilty of any offence in connection with the arrangement for which he is criminally liable, he shall forthwith—
 - (a) report the matter to the Secretary of State, and
 - (b) provide the Secretary of State with such information and give the Secretary of State such access to and facilities for inspecting and taking copies of documents (being information or documents in his possession or under his control and relating to the matter in question) as the Secretary of State requires.
- (3) Where a prosecuting authority institutes criminal proceedings following any report under subsection (2), the nominee or, as the case may be, supervisor shall give the authority all assistance in connection with the prosecution which he is reasonably able to give.

For this purpose, “prosecuting authority” means the Director of Public Prosecutions or the Secretary of State.
- (4) The court may, on the application of the prosecuting authority, direct a nominee or supervisor to comply with subsection (3) if he has failed to do so.

Textual Amendments

- F3** S. 262B inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 12**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

VALID FROM 01/01/2003

^{F4}262C Arrangements coming to an end prematurely.

For the purposes of this Part, a voluntary arrangement approved by a creditors' meeting summoned under section 257 comes to an end prematurely if, when it ceases to have effect, it has not been fully implemented in respect of all persons bound by the arrangement by virtue of section 260(2)(b)(i).

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Textual Amendments

- F4** S. 262C inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 12**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

263 Implementation and supervision of approved voluntary arrangement.

- (1) This section applies where a voluntary arrangement approved by a creditors' meeting summoned under section 257 has taken effect.
- (2) The person who is for the time being carrying out, in relation to the voluntary arrangement, the functions conferred by virtue of the approval on the nominee (or his replacement under section 256(3)(a) or 258(3)) shall be known as the supervisor of the voluntary arrangement.
- (3) If the debtor, any of his creditors or any other person is dissatisfied by any act, omission or decision of the supervisor, he may apply to the court; and on such an application the court may—
 - (a) confirm, reverse or modify any act or decision of the supervisor,
 - (b) give him directions, or
 - (c) make such other order as it thinks fit.
- (4) The supervisor may apply to the court for directions in relation to any particular matter arising under the voluntary arrangement.
- (5) The court may, whenever—
 - (a) it is expedient to appoint a person to carry out the functions of the supervisor, and
 - (b) it is inexpedient, difficult or impracticable for an appointment to be made without the assistance of the court,

make an order appointing a person who is qualified to act as an insolvency practitioner in relation to the debtor, either in substitution for the existing supervisor or to fill a vacancy.

This is without prejudice to section 41(2) of the ^{M2}Trustee Act 1925 (power of court to appoint trustees of deeds of arrangement).

- (6) The power conferred by subsection (5) is exercisable so as to increase the number of persons exercising the functions of the supervisor or, where there is more than one person exercising those functions, so as to replace one or more of those persons.

Modifications etc. (not altering text)

- C6** Ss. 256–263 applied with modifications by S.I. 1986/1999, **art. 3, Sch. I Pt. III**
S. 263 amended (1.12.2001) by 2000 c. 8, **s. 357(5)(b)**; S.I. 2001/3538, **art. 2(1)**

Marginal Citations

- M2** 1925 c. 19.

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