



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 5

#### DEBT MANAGEMENT AND RELIEF

PROSPECTIVE

#### CHAPTER 1

##### ADMINISTRATION ORDERS

#### 106 Administration orders

(1) For Part 6 of the County Courts Act 1984 (c. 28) (administration orders) substitute—

#### “PART 6

##### ADMINISTRATION ORDERS

##### *Administration orders*

#### 112A Administration orders

An administration order is an order—

- (a) to which certain debts are scheduled in accordance with section 112C, 112D or 112Y(3) or (4),
- (b) which imposes the requirement specified in section 112E on the debtor, and

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- (c) which imposes the requirements specified in sections 112F to 112I on certain creditors.

### 112B Power to make order

- (1) [<sup>F1</sup>The county court] may make an administration order if the conditions in subsections (2) to (7) are met.
- (2) The order must be made in respect of an individual who is a debtor under two or more qualifying debts.
- (3) That individual (“the debtor”) must not be a debtor under any business debts.
- (4) The debtor must not be excluded under any of the following—
  - (a) the AO exclusion;
  - (b) the voluntary arrangement exclusion;
  - (c) the bankruptcy exclusion.
- (5) The debtor must be unable to pay one or more of his qualifying debts.
- (6) The total amount of the debtor's qualifying debts must be less than, or the same as, the prescribed maximum.
- (7) The debtor's surplus income must be more than the prescribed minimum.
- (8) Before making an administration order, the county court must have regard to any representations made—
  - (a) by any person about why the order should not be made, or
  - (b) by a creditor under a debt about why the debt should not be taken into account in calculating the total amount of the debtor's qualifying debts.

### *Scheduling debts*

### 112C Scheduling declared debts

- (1) This section applies to a qualifying debt (“the declared debt”) if—
  - (a) an administration order is made, and
  - (b) when the order is made, the debt is taken into account in calculating the total amount of the debtor's qualifying debts for the purposes of section 112B(6).
- (2) If the declared debt is already due at the time the administration order is made, the <sup>F2</sup>... county court must schedule the debt to the order when the order is made.
- (3) If the declared debt becomes due after the administration order is made, the <sup>F2</sup>... county court must schedule the debt to the order if the debtor, or the creditor under the debt, applies to the court for the debt to be scheduled.
- (4) This section is subject to section 112AG(5).

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### 112D Scheduling new debts

- (1) This section applies to a qualifying debt (“the new debt”) if the debt—
  - (a) arises after an administration order is made, and
  - (b) becomes due during the currency of the order.
- (2) The <sup>F2</sup>... county court may schedule the new debt to the administration order if these conditions are met—
  - (a) the debtor, or the creditor under the new debt, applies to the court for the debt to be scheduled;
  - (b) the total amount of the debtor's qualifying debts (including the new debt) is less than, or the same as, the prescribed maximum.

#### *Requirements imposed by order*

### 112E Repayment requirement

- (1) An administration order must, during the currency of the order, impose a repayment requirement on the debtor.
- (2) A repayment requirement is a requirement for the debtor to repay the scheduled debts.
- (3) The repayment requirement may provide for the debtor to repay a particular scheduled debt in full or to some other extent.
- (4) The repayment requirement may provide for the debtor to repay different scheduled debts to different extents.
- (5) In the case of a new debt scheduled to the order in accordance with section 112D, the repayment requirement may provide that no due repayment in respect of the new debt is to be made until the debtor has made all due repayments in respect of declared debts.
- (6) The repayment requirement must provide that the due repayments are to be made by instalments.
- (7) It is for the <sup>F2</sup>... county court to decide when the instalments are to be made.
- (8) But the <sup>F2</sup>... county court is to determine the amount of the instalments in accordance with repayment regulations.
- (9) Repayment regulations are regulations which make provision for instalments to be determined by reference to the debtor's surplus income.
- (10) The repayment requirement may provide that the due repayments are to be made by other means (including by one or more lump sums) in addition to the instalments required in accordance with subsection (6).
- (11) The repayment requirement may include provision in addition to any that is required or permitted by this section.
- (12) In this section—

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“declared debt” has the same meaning as in section 112C (and for this purpose it does not matter whether a declared debt is scheduled to the administration order when it is made, or afterwards);

“due repayments” means repayments which the repayment requirement requires the debtor to make;

“new debt” has the same meaning as in section 112D.

#### **112F Presentation of bankruptcy petition**

- (1) An administration order must, during the currency of the order, impose the following requirement.
- (2) The requirement is that no qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless the creditor has the permission of the <sup>F2</sup>... county court.
- (3) The <sup>F2</sup>... county court may give permission for the purposes of subsection (2) subject to such conditions as it thinks fit.

#### **112G Remedies other than bankruptcy**

- (1) An administration order must, during the currency of the order, impose the following requirement.
- (2) The requirement is that no qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt unless—
  - (a) regulations under subsection (3) provide otherwise, or
  - (b) the creditor has the permission of the <sup>F2</sup>... county court.
- (3) Regulations may specify classes of debt which are exempted (or exempted for specified purposes) from the restriction imposed by subsection (2).
- (4) The <sup>F2</sup>... county court may give permission for the purposes of subsection (2)
  - (b) subject to such conditions as it thinks fit.
- (5) This section does not have any effect in relation to bankruptcy proceedings.

#### **112H Charging of interest etc**

- (1) An administration order must, during the currency of the order, impose the following requirement.
- (2) The requirement is that no creditor under a scheduled debt is to charge any sum by way of interest, fee or other charge in respect of that debt.

#### **112I Stopping supplies of gas or electricity**

- (1) An administration order must, during the currency of the order, impose the requirement in subsection (3).
- (2) In relation to that requirement, a domestic utility creditor is any person who—
  - (a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and

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- (b) is a creditor under a qualifying debt that relates to the provision of that supply.
- (3) The requirement is that no domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (6).
- (4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the making of the administration order.
- (5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—
- (a) that supply, or
- (b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.
- (6) The third case is where the <sup>F2</sup>... county court gives permission to stop a supply.
- (7) The <sup>F2</sup>... county court may give permission for the purposes of subsection (6) subject to such conditions as it thinks fit.
- (8) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986.
- (9) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989.

### *Making an order*

#### **112J Application for an order**

- (1) [<sup>F1</sup>The county court] may make an administration order only on the application of the debtor.
- (2) The debtor may make an application for an administration order whether or not a judgment has been obtained against him in respect of any of his debts.

#### **112K Duration**

- (1) [<sup>F1</sup>The county court] may, at the time it makes an administration order, specify a day on which the order will cease to have effect.
- (2) The court may not specify a day which falls after the last day of the maximum permitted period.
- (3) If the court specifies a day under this section, the order ceases to have effect on that day.
- (4) If the court does not specify a day under this section, the order ceases to have effect at the end of the maximum permitted period.
- (5) The maximum permitted period is the period of five years beginning with the day on which the order is made.
- (6) This section is subject to—

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- (a) section 112S (variation of duration);
- (b) section 112W (effect of revocation).

(7) This section is also subject to the following (effect of enforcement restriction order or debt relief order on administration order)—

- (a) section 117I of this Act;
- (b) section 251F of the Insolvency Act 1986.

### *Effects of order*

#### **112L Effect on other debt management arrangements**

- (1) This section applies if—
  - (a) an administration 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 administration order is made.
- (3) If the <sup>F2</sup>... county court is aware of the other debt management arrangements, the court must give the relevant authority notice that the order has been made.
- (4) In a case where the <sup>F2</sup>... county court is aware of other debt management arrangements at the time it makes the order, it must give the notice as soon as practicable after making the order.
- (5) In a case where the <sup>F2</sup>... county court becomes aware of those arrangements after it makes the order, it must give the notice as soon as practicable after becoming aware of them.
- (6) “Other debt management arrangements” means any of the following—
  - (a) an enforcement restriction order under Part 6A of this Act;
  - (b) a debt relief order under Part 7A of the Insolvency Act 1986;
  - (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.
- (7) “The relevant authority” means—
  - (a) in relation to an enforcement restriction order: the <sup>F2</sup>... county court <sup>F3</sup>...;
  - (b) in relation to a debt relief order: the official receiver;
  - (c) in relation to a debt repayment plan: the operator of the debt management scheme in accordance with which the plan is arranged.
- (8) For the purposes of this section a debt relief order is “in force” if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

#### **112M Duty to provide information**

- (1) This section applies if, and for as long as, an administration order has effect in respect of a debtor.

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- (2) The debtor must, at the prescribed times, provide the <sup>F2</sup>... county court with particulars of his—
  - (a) earnings,
  - (b) income,
  - (c) assets, and
  - (d) outgoings.
- (3) The debtor must provide particulars of those matters—
  - (a) as the matters are at the time the particulars are provided, and
  - (b) as the debtor expects the matters to be at such times in the future as are prescribed.
- (4) If the debtor intends to dispose of any of his property he must, within the prescribed period, provide the <sup>F2</sup>... county court with particulars of the following matters—
  - (a) the property he intends to dispose of;
  - (b) the consideration (if any) he expects will be given for the disposal;
  - (c) such other matters as may be prescribed;
  - (d) such other matters as the court may specify.
- (5) But subsection (4) does not apply if the disposal is of—
  - (a) goods that are exempt goods for the purposes of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,
  - (b) goods that are protected under any other enactment from being taken control of under that Schedule, or
  - (c) prescribed property.
- (6) The duty under subsection (4) to provide the <sup>F2</sup>... county court with particulars of a proposed disposal of property applies whether the debtor is the sole owner, or one of several owners, of the property.
- (7) In any provision of this section “prescribed” means prescribed in regulations for the purposes of that provision.

#### **112N Offence if information not provided**

- (1) A person commits an offence if he fails to comply with—
  - (a) section 112M(2) and (3), or
  - (b) section 112M(4).
- (2) A person who commits an offence under subsection (1) may be ordered by a judge of the <sup>F2</sup>... county court to pay a fine of not more than £250 or to be imprisoned for not more than 14 days.
- (3) Where under subsection (2) a person is ordered to be imprisoned by a judge of the <sup>F2</sup>... county court, [<sup>F4</sup>a judge of the county court] may at any time—
  - (a) revoke the order, and
  - (b) if the person is already in custody, order his discharge.
- (4) Section 129 of this Act (enforcement of fines) applies to payment of a fine imposed under subsection (2).

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- (5) For the purposes of section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), subsection (2) is to be treated as an enactment enabling a county court to deal with an offence under subsection (1) as if it were a contempt of court.

<sup>F5</sup>(6) .....

### 112O Existing county court proceedings to be stayed

- (1) This section applies if these conditions are met—
- (a) an administration order is made;
  - (b) proceedings in [<sup>F6</sup>the county court] (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;
  - (c) by virtue of a requirement included in the order by virtue of section 112G, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;
  - (d) the county court receives notice of the administration order.
- (2) The county court must stay the proceedings.
- (3) The court may allow costs already incurred by the creditor.
- (4) If the court allows such costs, it may on application or of its motion add them—
- (a) to the debt, or
  - (b) if the debt is a scheduled debt, to the amount scheduled to the order in respect of the debt.
- (5) But the court may not add the costs under subsection (4)(b) if the court is under a duty under section 112U(6)(b) to revoke the order because the total amount of the debtor's qualifying debts (including the costs) is more than the prescribed maximum.

### 112P Appropriation of money paid

- (1) Money paid into court under an administration order is to be appropriated—
- (a) first in satisfaction of any relevant court fees, and
  - (b) then in liquidation of debts.
- (2) Relevant court fees are any fees under an order made under section 92 of the Courts Act 2003 which are payable by the debtor in respect of the administration order.

### 112Q Discharge from debts

- (1) If the debtor repays a scheduled debt to the extent provided for by the administration order, the <sup>F2</sup>... county court must—
- (a) order that the debtor is discharged from the debt, and
  - (b) de-schedule the debt.



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- (2) If the debtor repays all of the scheduled debts to the extent provided for by the administration order, the <sup>F2</sup>... county court must revoke the order.
- (3) Subsections (1) and (2) apply to all scheduled debts, including any which, under the administration order, are to be repaid other than to their full extent.

### *Variation*

#### **112R Variation**

- (1) The <sup>F2</sup>... county court may vary an administration order.
- (2) The power under this section is exercisable—
  - (a) on the application of the debtor;
  - (b) on the application of a qualifying creditor;
  - (c) of the court's own motion.

#### **112S Variation of duration**

- (1) The power under section 112R includes power to vary an administration order so as to specify a day, or (if a day has already been specified under section 112K or this subsection) a different day, on which the order will cease to have effect.
- (2) But the new termination day must fall on or before the last day of the maximum permitted period.
- (3) If the <sup>F2</sup>... county court varies an administration under subsection (1), the order ceases to have effect on the new termination day.
- (4) In this section—
  - (a) “new termination day” means the day on which the order will cease to have effect in accordance with the variation under subsection (1);
  - (b) “maximum permitted period” means the period of five years beginning with the day on which the order was originally made.
- (5) This section is subject to section 112W (effect of revocation).

#### **112T De-scheduling debts**

- (1) The power under section 112R includes power to vary an administration order by de-scheduling a debt.
- (2) But the debt may be de-scheduled only if it appears to the <sup>F2</sup>... county court that it is just and equitable to do so.

### *Revocation*

#### **112U Duty to revoke order**

- (1) The <sup>F2</sup>... county court must revoke an administration order in either of these cases—

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- (a) where it becomes apparent that, at the time the order was made, the condition in subsection 112B(2) was not met (debtor in fact did not have two or more qualifying debts);
  - (b) where the debtor is no longer a debtor under any qualifying debts.
- (2) The <sup>F2</sup>... county court must revoke an administration order in either of these cases—
- (a) where it becomes apparent that, at the time the order was made, the condition in subsection 112B(3) was not met (debtor in fact had business debt), and he is still a debtor under the business debt, or any of the business debts, in question;
  - (b) where the debtor subsequently becomes a debtor under a business debt, and he is still a debtor under that debt.
- (3) The <sup>F2</sup>... county court must revoke an administration order where it becomes apparent that, at the time the order was made, the condition in section 112B(4) was not met (debtor in fact excluded under AO, voluntary arrangement or bankruptcy exclusion).
- (4) The <sup>F2</sup>... county court must revoke an administration order where, after the order is made—
- (a) the debtor becomes excluded under the voluntary arrangement exclusion, or
  - (b) a bankruptcy order is made against the debtor, and is still in force.
- (5) The <sup>F2</sup>... county court must revoke an administration order in either of these cases—
- (a) where it becomes apparent that, at the time the order was made, the condition in section 112B(5) was not met (debtor in fact able to pay qualifying debts);
  - (b) where the debtor is now able to pay all of his qualifying debts.
- (6) The <sup>F2</sup>... county court must revoke an administration order in either of these cases—
- (a) where it becomes apparent that, at the time the order was made, the condition in section 112B(6) was not met (debtor's qualifying debts in fact more than prescribed maximum);
  - (b) where the total amount of the debtor's qualifying debts is now more than the prescribed maximum.
- (7) The <sup>F2</sup>... county court must revoke an administration order in either of these cases—
- (a) where it becomes apparent that, at the time the order was made, the condition in section 112B(7) was not met (debtor's surplus income in fact less than, or the same as, the prescribed minimum);
  - (b) where the debtor's surplus income is now less than, or the same as, the prescribed minimum.

#### **112V Power to revoke order**

- (1) The <sup>F2</sup>... county court may revoke an administration order in any case where there is no duty under this Part to revoke it.

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- (2) The power of revocation under this section may, in particular, be exercised in any of the following cases—
  - (a) where the debtor has failed to make two payments (whether consecutive or not) required by the order;
  - (b) where the debtor has failed to provide the <sup>F2</sup>... county court with the particulars required by—
    - (i) section 112M(2) and (3), or
    - (ii) section 112M(4).
- (3) The power of revocation under this section is exercisable—
  - (a) on the application of the debtor;
  - (b) on the application of a qualifying creditor;
  - (c) of the court's own motion.

#### **112W Effect of revocation**

- (1) This section applies if, under any duty or power in this Part, the <sup>F2</sup>... county court revokes an administration order.
- (2) The order ceases to have effect in accordance with the terms of the revocation.

#### *Notification of certain events*

#### **112X Notice when order made, varied, revoked etc**

- (1) If a notifiable event occurs in relation to an administration order, the <sup>F2</sup>... county court must send notice of the event to the creditor under every scheduled debt.
- (2) There is a notifiable event in any of the following cases—
  - (a) when the administration order is made;
  - (b) when a debt is scheduled to the administration order at any time after the making of the order;
  - (c) when the administration order is varied;
  - (d) when the administration order is revoked;
  - (e) when the <sup>F2</sup>... county court is given notice under any of the provisions listed in section 112K(7) (effect of enforcement restriction order or debt relief order on administration order).

#### *Total amount of qualifying debts not properly calculated*

#### **112Y Failure to take account of all qualifying debts**

- (1) This section applies if—
  - (a) an administration order has been made, but
  - (b) it becomes apparent that the total amount of the debtor's qualifying debts was not properly calculated for the purposes of section 112B(6), because of an undeclared debt.

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- (2) A debt is undeclared if it ought to have been, but was not, taken into account in the calculation for the purposes of section 112B(6).
- (3) If these conditions are met—
  - (a) the undeclared debt is due (whether it became due before or after the making of the order);
  - (b) the total debt is less than, or the same as, the prescribed maximum; the <sup>F2</sup>... county court must schedule the undeclared debt to the order.
- (4) If these conditions are met—
  - (a) the undeclared debt is not due;
  - (b) the total debt is less than, or the same as, the prescribed maximum; the <sup>F2</sup>... county court must schedule the undeclared debt to the order when the debt becomes due.
- (5) If the total debt is more than the prescribed maximum, the <sup>F2</sup>... county court must revoke the administration order (whether or not the undeclared debt is due).
- (6) In this section “total debt” means the total amount of the debtor's qualifying debts (including the undeclared debt).
- (7) Subsections (3) and (4) are subject to section 112AG(5).

*Interpretation*

**112Z Introduction**

Sections 112AA to 112AH apply for the purposes of this Part.

**112AA Main definitions**

- (1) In this Part—
  - “administration order” has the meaning given by section 112A;
  - “debtor” has the meaning given by section 112B;
  - “prescribed maximum” means the amount prescribed in regulations for the purposes of section 112B(6);
  - “prescribed minimum” means the amount prescribed in regulations for the purposes of section 112B(7);
  - “qualifying creditor” means a creditor under a qualifying debt.
- (2) References to the currency of an administration order are references to the period which—
  - (a) begins when the order first has effect, and
  - (b) ends when the order ceases to have effect.

<sup>F7</sup>(3) .....

<sup>F7</sup>(4) .....

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### **112AB Expressions relating to debts**

- (1) All debts are qualifying debts, except for the following—
  - (a) any debt secured against an asset;
  - (b) any debt of a description specified in regulations.
- (2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.
- (3) Only debts that have already arisen are included in references to debts; and accordingly such references do not include any debt that will arise only on the happening of some future contingency.

### **112AC Inability to pay debts**

- (1) In a case where an individual is the debtor under a debt that is repayable by a single payment, the debtor is to be regarded as unable to pay the debt only if—
  - (a) the debt has become due,
  - (b) the debtor has failed to make the single payment, and
  - (c) the debtor is unable to make that payment.
- (2) In a case where an individual is the debtor under a debt that is repayable by a number of payments, the debtor is to be regarded as unable to pay the debt only if—
  - (a) the debt has become due,
  - (b) the debtor has failed to make one or more of the payments, and
  - (c) the debtor is unable to make all of the missed payments.

### **112AD Calculating the debtor's qualifying debts**

- (1) The total amount of a debtor's qualifying debts is to be calculated in accordance with subsections (2) and (3).
- (2) All of the debtor's qualifying debts which have arisen before the calculation must be taken into account (whether or not the debts are already due at the time of the calculation).
- (3) Regulations must make further provision about how the total amount of a debtor's qualifying debts is to be calculated.
- (4) Regulations may make provision about how the amount of any particular qualifying debt is to be calculated.
- (5) That includes the calculation of the amount of a debt for these purposes—
  - (a) calculating the total amount of the debtor's qualifying debts;
  - (b) scheduling the debt to an administration order.

### **112AE Calculating the debtor's surplus income**

- (1) The debtor's surplus income is to be calculated in accordance with regulations.

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- (2) Regulations under this section must, in particular, make the following provision—
  - (a) provision about what is surplus income;
  - (b) provision about the period by reference to which the debtor's surplus income is to be calculated.
- (3) Regulations under this section may, in particular, provide for the debtor's assets to be taken account of when calculating his surplus income.

#### **112AF Debts becoming due**

- (1) A debt that is repayable by a single payment becomes due when the time for making that payment is reached.
- (2) A debt that is repayable by a number of payments becomes due when the time for making the first of the payments is reached.

#### **112AG Scheduling and de-scheduling debts**

- (1) A debt is scheduled to an administration order if the relevant information is included in a schedule to the order.
- (2) A debt is de-scheduled if the relevant information is removed from a schedule in which it was included as mentioned in subsection (1).
- (3) In relation to a debt, the relevant information is—
  - (a) the amount of the debt, and
  - (b) the name of the creditor under the debt.
- (4) A scheduled debt is a debt that is scheduled to an administration order.
- (5) The <sup>F2</sup>... county court must not schedule a debt to an administration order unless the court has had regard to any representations made by any person about why the debt should not be scheduled.
- (6) But subsection (5) does not apply to any representations which are made by the debtor in relation to the scheduling of a debt under section 112Y.
- (7) The <sup>F2</sup>... county court must not de-schedule a debt unless the court has had regard to any representations made by any person about why the debt should not be de-scheduled.
- (8) But subsection (7) does not apply in relation to the de-scheduling of a debt under section 112Q.
- (9) A court must not schedule a debt to an administration order, or de-schedule a debt, except in accordance with the provisions of this Part.

#### **112AH The AO, voluntary arrangement and bankruptcy exclusions**

- (1) The debtor is excluded under the AO exclusion if—
  - (a) an administration order currently has effect in respect of him, or

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- (b) an administration order has previously had effect in respect of him, and the period of 12 months — beginning with the day when that order ceased to have effect — has yet to finish.
- (2) But in a case that falls within subsection (1)(b), the debtor is not excluded under the AO exclusion if the previous administration order—
- (a) ceased to have effect in accordance with any of the provisions listed in section 112K(7) (effect of enforcement restriction order or debt relief order on administration order), or
  - (b) was revoked in accordance with section 112U(1)(b) (debtor no longer has any qualifying debts).
- (3) The debtor is excluded under the voluntary arrangement exclusion if—
- (a) an interim order under section 252 of the Insolvency Act 1986 has effect in respect of him (interim order where debtor intends to make proposal for voluntary arrangement), or
  - (b) he is bound by a voluntary arrangement approved under Part 8 of the Insolvency Act 1986.
- (4) The debtor is excluded under the bankruptcy exclusion if—
- (a) a petition for a bankruptcy order to be made against him has been presented but not decided, or
  - (b) he is an undischarged bankrupt.

### *Regulations*

#### **112AI Regulations under this Part**

- (1) It is for the Lord Chancellor to make regulations under this Part.
  - (2) Any power to make regulations under this Part is exercisable by statutory instrument.
  - (3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) Schedule 16 makes amendments consequential on the substitution of the new Part 6 in the 1984 Act.
- (3) This section does not apply to any case in which an administration order was made, or an application for such an order was made, before the day on which this section comes into force.

#### **Textual Amendments**

- F1** Words in s. 106 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(3\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F2** Words in s. 106 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(2\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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- F3** Words in s. 106 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(4\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F4** Words in s. 106 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(5\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F5** Words in s. 106 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(6\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F6** Words in s. 106 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(7\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F7** Words in s. 106 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 47\(8\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

PROSPECTIVE

## CHAPTER 2

### ENFORCEMENT RESTRICTION ORDERS

#### 107 Enforcement restriction orders

- (1) After Part 6 of the County Courts Act 1984 (c. 28) (administration orders) insert—

#### “PART 6A

#### ENFORCEMENT RESTRICTION ORDERS

#### *Enforcement restriction orders*

#### 117A Enforcement restriction orders

- (1) An enforcement restriction order is an order that imposes the requirements specified in sections 117C to 117E on certain creditors.
- (2) An enforcement restriction order may also impose a requirement in accordance with section 117F on the debtor.

#### 117B Power to make order

- (1) [<sup>F8</sup>The county court] may make an enforcement restriction order if the conditions in subsections (2) to (8) are met.
- (2) The order must be made in respect of an individual who is a debtor under two or more qualifying debts.
- (3) That individual (“the debtor”) must not be a debtor under any business debts.



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- (4) The debtor must not be excluded under any of the following—
  - (a) the ERO exclusion;
  - (b) the voluntary arrangement exclusion;
  - (c) the bankruptcy exclusion.
- (5) The debtor must be unable to pay one or more of his qualifying debts.
- (6) The debtor must be suffering from a sudden and unforeseen deterioration in his financial circumstances.
- (7) There must be a realistic prospect that the debtor's financial circumstances will improve within the period of six months beginning when the order is made.
- (8) It must be fair and equitable to make the order.
- (9) Before making an enforcement restriction order, the county court must have regard to any representations made by any person about why the order should not be made.
- (10) Subsection (9) is subject to Civil Procedure Rules.

#### *Requirements imposed by order*

##### **117C Presentation of bankruptcy petition**

- (1) An enforcement restriction order must, during the currency of the order, impose the following requirement.
- (2) The requirement is that no qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless the creditor has the permission of the <sup>F9</sup>... county court.
- (3) The <sup>F9</sup>... county court may give permission for the purposes of subsection (2) subject to such conditions as it thinks fit.

##### **117D Remedies other than bankruptcy**

- (1) An enforcement restriction order must, during the currency of the order, impose the following requirement.
- (2) The requirement is that no qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt unless—
  - (a) regulations under subsection (3) provide otherwise, or
  - (b) the creditor has the permission of the <sup>F9</sup>... county court.
- (3) Regulations may specify classes of debt which are exempted (or exempted for specified purposes) from any requirement imposed by subsection (2).
- (4) The <sup>F9</sup>... county court may give permission for the purposes of subsection (2) subject to such conditions as it thinks fit.
- (5) This section does not have any effect in relation to bankruptcy proceedings.

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### 117E Stopping supplies of gas or electricity

- (1) An enforcement restriction order must, during the currency of the order, impose the requirement in subsection (3).
- (2) In relation to that requirement, a domestic utility creditor is any person who—
  - (a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and
  - (b) is a creditor under a qualifying debt that relates to the provision of that supply.
- (3) The requirement is that no domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (6).
- (4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the making of the enforcement restriction order.
- (5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—
  - (a) that supply, or
  - (b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.
- (6) The third case is where the <sup>F9</sup>... county court gives permission to stop a supply.
- (7) The <sup>F9</sup>... county court may give permission for the purposes of subsection (6) subject to such conditions as it thinks fit.
- (8) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986.
- (9) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989.

### 117F Repayment requirement

- (1) An enforcement restriction order may impose a repayment requirement on the debtor.
- (2) The county court may include the requirement in the order at the time it makes the order.
- (3) The <sup>F9</sup>... county court may, at any time after an enforcement restriction order has been made, vary the order so as to include a repayment requirement.
- (4) The <sup>F9</sup>... county court may, at any time when an enforcement restriction order includes a repayment requirement, vary the order so as to—
  - (a) remove the repayment requirement, or
  - (b) include a different repayment requirement.

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- (5) A repayment requirement is a requirement that the debtor make payments, in respect of one or more of his qualifying debts, to the person or persons to whom he owes the debt or debts.
- (6) [<sup>F8</sup>The county court] may include a repayment requirement in an order only if—
  - (a) the debtor has surplus income at the time of the inclusion of the requirement, and
  - (b) the inclusion of the requirement would be fair and equitable.
- (7) The debtor's surplus income is to be calculated in accordance with regulations.
- (8) Regulations under subsection (7) must make the following provision—
  - (a) provision about what is surplus income;
  - (b) provision about the period by reference to which the debtor's surplus income is to be calculated.
- (9) Regulations under subsection (7) may, in particular, provide for the debtor's assets to be taken account of for the purpose of calculating his surplus income.
- (10) The <sup>F9</sup>... county court may vary an enforcement restriction order under this section—
  - (a) of its own motion;
  - (b) on the application of the debtor;
  - (c) on the application of a qualifying creditor.

#### *Making an order*

##### **117G Application for order**

- (1) [<sup>F8</sup>The county court] may make an enforcement restriction order only on the application of the debtor.
- (2) The debtor may make an application for an enforcement restriction order whether or not a judgment has been obtained against him in respect of any of his debts.

##### **117H Duration**

- (1) [<sup>F8</sup>The county court] may, at the time it makes an enforcement restriction order, specify a day on which the order will cease to have effect.
- (2) The court may not specify a day which falls after the last day of the maximum permitted period.
- (3) If the court specifies a day under this section, the order ceases to have effect on that day.
- (4) If the court does not specify a day under this section, the order ceases to have effect at the end of the maximum permitted period.
- (5) The maximum permitted period is the period of 12 months beginning with the day on which the order is made.

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- (6) This section is subject to—
  - (a) section 117N (variation of duration);
  - (b) section 117Q (effect of revocation);
- (7) This section is also subject to the following (effect of administration order or debt relief order on enforcement restriction order)—
  - (a) section 112L of this Act;
  - (b) section 251F of the Insolvency Act 1986.

### *Effects of order*

#### **117I Effect on other debt management arrangements**

- (1) This section applies if—
  - (a) an enforcement restriction 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 enforcement restriction order is made.
- (3) If the <sup>F9</sup>... county court is aware of the other debt management arrangements, the court must give the relevant authority notice that the order has been made.
- (4) In a case where the <sup>F9</sup>... county court is aware of those arrangements at the time it makes the order, it must give the notice as soon as practicable after making the order.
- (5) In a case where the <sup>F9</sup>... county court only becomes aware of those arrangements after it makes the order, it must give the notice as soon as practicable after becoming aware of them.
- (6) “Other debt management arrangements” means any of the following—
  - (a) an administration order under Part 6 of this Act;
  - (b) a debt relief order under Part 7A of the Insolvency Act 1986;
  - (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.
- (7) “The relevant authority” means—
  - (a) in relation to an administration order: the <sup>F9</sup>... county court <sup>F10</sup>...;
  - (b) in relation to a debt relief order: the official receiver;
  - (c) in relation to a debt repayment plan: the operator of the debt management scheme in accordance with which the plan is arranged.
- (8) For the purposes of this section a debt relief order is “in force” if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

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### 117J Duty to provide information

- (1) This section applies if, and for as long as, an enforcement restriction order has effect in respect of a debtor.
- (2) The debtor must, at the prescribed times, provide the <sup>F9</sup>... county court with particulars of his—
  - (a) earnings,
  - (b) income,
  - (c) assets, and
  - (d) outgoings.
- (3) The debtor must provide particulars of those matters—
  - (a) as the matters are at the time the particulars are provided, and
  - (b) as the debtor expects the matters to be at such times in the future as may be prescribed.
- (4) If the debtor intends to dispose of any of his property he must, within the prescribed period, provide the <sup>F9</sup>... county court with particulars of the following matters—
  - (a) the property he intends to dispose of;
  - (b) the consideration (if any) he expects will be given for the disposal;
  - (c) such other matters as may be prescribed;
  - (d) such other matters as the court may specify.
- (5) But subsection (4) does not apply if the disposal is of—
  - (a) goods that are exempt goods for the purposes of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,
  - (b) goods that are protected under any other enactment from being taken control of under that Schedule, or
  - (c) prescribed property.
- (6) The duty under subsection (4) to provide the <sup>F9</sup>... county court with particulars of a proposed disposal of property applies whether the debtor is the sole owner, or one of several owners, of the property.
- (7) In any provision of this section “prescribed” means prescribed in regulations for the purposes of that provision.

### 117K Offence if information not provided

- (1) A person commits an offence if he fails to comply with—
  - (a) section 117J(2) and (3), or
  - (b) section 117J(4).
- (2) A person who commits an offence under subsection (1) may be ordered by a judge of the <sup>F9</sup>... county court to pay a fine of not more than £250 or to be imprisoned for not more than 14 days.
- (3) Where under subsection (2) a person is ordered to be imprisoned by a judge of the <sup>F9</sup>... county court, [<sup>F11</sup>a judge of the county court] may at any time—

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- (a) revoke the order, and
- (b) if the person is already in custody, order his discharge.

(4) Section 129 of this Act (enforcement of fines) applies to payment of a fine imposed under subsection (2).

(5) For the purposes of section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), subsection (2) is to be treated as an enactment enabling [<sup>F12</sup>the county court] to deal with an offence under subsection (1) as if it were a contempt of court.

<sup>F13</sup>(6) .....

#### **117L Existing county court proceedings to be stayed**

- (1) This section applies if these conditions are met—
- (a) an enforcement restriction order is made;
  - (b) proceedings in [<sup>F12</sup>the county court] (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;
  - (c) by virtue of a requirement included in the order by virtue of section 117D, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;
  - (d) the county court receives notice of the enforcement restriction order.
- (2) The county court must stay the proceedings.
- (3) The county court—
- (a) may allow costs already incurred by the creditor, and
  - (b) if the court allows such costs, may on application or of its own motion add them to the debt owed to the creditor.

#### **117M Charges**

- (1) This section applies during, and after, the currency of an enforcement restriction order.
- (2) A qualifying creditor may not make any charge in respect of a protected qualifying debt, unless the charge—
- (a) is interest, or
  - (b) is not interest but relates to a time before or after the currency of the order.
- (3) A charge made in breach of subsection (2) is not recoverable.
- (4) In subsection (2) “protected qualifying debt” means any qualifying debt under which the debtor was a debtor at some time during the currency of the enforcement restriction order.

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### *Variation of duration*

#### **117N Variation of duration**

- (1) The <sup>F9</sup>... county court may vary an enforcement restriction order so as to specify a day, or (if a day has already been specified under section 117H or this section) a different day, on which the order will cease to have effect.
- (2) But the new termination day must fall on or before the last day of the maximum permitted period.
- (3) If the <sup>F9</sup>... county court varies an enforcement restriction order under subsection (1), the order ceases to have effect on the new termination day.
- (4) The power under this section is exercisable—
  - (a) on the application of the debtor;
  - (b) on the application of a qualifying creditor;
  - (c) of the court's own motion.
- (5) In this section—
  - (a) “new termination day” means the day on which the order will cease to have effect in accordance with the variation under subsection (1);
  - (b) “maximum permitted period” means the period of 12 months beginning with the day on which the order was originally made.
- (6) This section is subject to section 117Q (effect of revocation).

### *Revocation of order*

#### **117O Duty to revoke order**

- (1) The <sup>F9</sup>... county court must revoke an enforcement restriction order in either of these cases—
  - (a) where it becomes apparent that, at the time the order was made, the condition in subsection 117B(2) was not met (debtor in fact did not have two or more qualifying debts);
  - (b) where the debtor is no longer a debtor under any qualifying debts.
- (2) The <sup>F9</sup>... county court must revoke an enforcement restriction order in either of these cases—
  - (a) where it becomes apparent that, at the time the order was made, the condition in subsection 117B(3) was not met (debtor in fact had business debt), and he is still a debtor under the business debt, or any of the business debts, in question;
  - (b) where the debtor subsequently becomes a debtor under a business debt, and he is still a debtor under that debt.
- (3) The <sup>F9</sup>... county court must revoke an enforcement restriction order where it becomes apparent that, at the time the order was made, the condition in section 117B(4) was not met (debtor in fact excluded under ERO, voluntary arrangement or bankruptcy exclusion).

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- (4) The <sup>F9</sup>... county court must revoke an enforcement restriction order where, after the order is made—
  - (a) the debtor becomes excluded under the voluntary arrangement exclusion, or
  - (b) a bankruptcy order is made against the debtor, and is still in force.
- (5) The <sup>F9</sup>... county court must revoke an enforcement restriction order in either of these cases—
  - (a) where it becomes apparent that, at the time the order was made, the condition in section 117B(5) was not met (debtor in fact able to pay qualifying debts);
  - (b) where the debtor is now able to pay all of his qualifying debts.
- (6) The <sup>F9</sup>... county court must revoke an enforcement restriction order in either of these cases—
  - (a) where it becomes apparent that, at the time the order was made, the condition in section 117B(6) was not met (debtor in fact not suffering from sudden and unforeseen deterioration in financial circumstances);
  - (b) where the debtor is no longer suffering from the deterioration in financial circumstances which was taken into account for the purposes of section 117B(6) (even if he is suffering from some other sudden and unforeseen deterioration in his financial circumstances).
- (7) The <sup>F9</sup>... county court must revoke an enforcement restriction order in either of these cases—
  - (a) where it becomes apparent that, at the time the order was made, the condition in section 117B(7) was not met (in fact no realistic prospect of improvement in debtor's financial circumstances);
  - (b) where there is no longer a realistic prospect that the debtor's financial circumstances will improve during the period within which the order would continue to have effect (if not revoked).
- (8) The <sup>F9</sup>... county court must revoke an enforcement restriction order in either of these cases—
  - (a) where it becomes apparent that, at the time the order was made, the condition in section 117B(8) was not met (not in fact fair and equitable to make order);
  - (b) where it is not fair and equitable for the order to continue to have effect.

#### **117P Power to revoke order**

- (1) The <sup>F9</sup>... county court may revoke an enforcement restriction order in any case where there is no duty under this Part to revoke it.
- (2) The power of revocation under this section may, in particular, be exercised in any of the following cases—
  - (a) where the order includes, or has previously included, a repayment requirement, and the debtor has failed to comply with that requirement;



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- (b) where the debtor has failed to provide the <sup>F9</sup>... county court with the particulars required by—
  - (i) section 117J(2) and (3), or
  - (ii) section 117J(4).

- (3) The power of revocation under this section is exercisable—
  - (a) on the application of the debtor;
  - (b) on the application of a qualifying creditor;
  - (c) of the court's own motion.

#### **117Q Effect of revocation**

- (1) This section applies if, under any duty or power in this Part, the <sup>F9</sup>... county court revokes an enforcement restriction order.
- (2) The order ceases to have effect in accordance with the terms of the revocation.

#### *Notification of certain events*

#### **117R Notice when order made, varied, revoked etc.**

- (1) If a notifiable event occurs in relation to an enforcement restriction order, the <sup>F9</sup>... county court must give notice of the event to every identified qualifying creditor of the debtor.
- (2) There is a notifiable event in any of the following cases—
  - (a) when the enforcement restriction order is made;
  - (b) when the enforcement restriction order is varied;
  - (c) when the enforcement restriction order is revoked;
  - (d) when the <sup>F9</sup>... county court is given notice under any of the provisions listed in section 117H(7) (effect of administration order or debt relief order on enforcement restriction order).
- (3) A person is an identified qualifying creditor of the debtor if—
  - (a) the debtor has notified the <sup>F9</sup>... county court<sup>F14</sup>...<sup>F14</sup>...<sup>F14</sup>...that the person is a qualifying creditor, or
  - (b) the <sup>F9</sup>... county court is satisfied that the person is a qualifying creditor.

#### *Interpretation*

#### **117S Introduction**

Sections 117T to 117W apply for the purposes of this Part.

#### **117T Main definitions**

- (1) In this Part—
  - “enforcement restriction order” has the meaning given by section 117A;
  - “debtor” has the meaning given by section 117B;

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“qualifying creditor” means a creditor under a qualifying debt.

- (2) References to the currency of an enforcement restriction order are references to the period which—
- (a) begins when the order first has effect, and
  - (b) ends when the order ceases to have effect.

<sup>F15</sup>(3) .....

<sup>F15</sup>(4) .....

### 117U Expressions relating to debts

- (1) All debts are qualifying debts, except for the following—
  - (a) any debt secured against an asset;
  - (b) any debt of a description specified in regulations.
- (2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.
- (3) Only debts that have already arisen are included in references to debts; and accordingly such references do not include any debt that will arise only on the happening of some future contingency.

### 117V Inability to pay debts

- (1) In a case where an individual is the debtor under a debt that is repayable by a single payment, the debtor is to be regarded as unable to pay the debt only if—
  - (a) the time for making the payment has been reached,
  - (b) the debtor has failed to make the single payment, and
  - (c) the debtor is unable to make that payment.
- (2) In a case where an individual is the debtor under a debt that is repayable by a number of payments, the debtor is to be regarded as unable to pay the debt only if—
  - (a) the time for making the first of the payments has been reached,
  - (b) the debtor has failed to make one or more of the payments, and
  - (c) the debtor is unable to make all of the missed payments.

### 117W The ERO, voluntary arrangement and bankruptcy exclusions

- (1) The debtor is excluded under the ERO exclusion if—
  - (a) an enforcement restriction order currently has effect in respect of him, or
  - (b) an enforcement restriction order has previously had effect in respect of him, and the period of 12 months — beginning with the day when that order ceased to have effect — has yet to finish.
- (2) But in a case that falls within subsection (1)(b), the debtor is not excluded under the ERO exclusion if the previous enforcement restriction order—

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- (a) ceased to have effect in accordance with any of the provisions listed in section 117H(7) (effect of administration order or debt relief order on enforcement restriction order), or
  - (b) was revoked in accordance with section 117O(1)(b) (debtor no longer has any qualifying debts).
- (3) The debtor is excluded under the voluntary arrangement exclusion if—
- (a) an interim order under section 252 of the Insolvency Act 1986 has effect in respect of him (interim order where debtor intends to make proposal for voluntary arrangement), or
  - (b) he is bound by a voluntary arrangement approved under Part 8 of the Insolvency Act 1986.
- (4) The debtor is excluded under the bankruptcy exclusion if—
- (a) a petition for a bankruptcy order to be made against him has been presented but not decided, or
  - (b) he is an undischarged bankrupt.

### *Regulations*

#### 117X Power to make regulations

- (1) It is for the Lord Chancellor to make regulations under this Part.
  - (2) Any power to make regulations under this Part is exercisable by statutory instrument.
  - (3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In Schedule 6A to the Magistrates' Courts Act 1980 (c. 43) (fines that may be altered under section 143 of the 1980 Act) insert the following entry at the appropriate place in the entries relating to the County Courts Act 1984 (c. 28)—

“Section 117K(1) (enforcement restriction orders: failure to provide information)      £250”

- (3) In section 98 of the Courts Act 2003 (c. 39) (register of judgments and orders etc.), in subsection (1), for paragraph (d) substitute—
- “(d) enforcement restriction orders under Part 6A of that Act (power of county courts to make enforcement restriction orders);”.

#### Textual Amendments

- F8** Words in s. 107 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(2\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F9** Words in s. 107 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(3\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- F10** Words in s. 107 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(4\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F11** Words in s. 107 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(5\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F12** Words in s. 107 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(6\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F13** Words in s. 107 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(7\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F14** Words in s. 107 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(8\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F15** Words in s. 107 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 48\(9\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

## CHAPTER 3

### DEBT RELIEF ORDERS

#### **108 Debt relief orders and debt relief restrictions orders etc.**

- (1) In the Second Group of Parts of the Insolvency Act 1986 (c. 45) (insolvency of individuals), before Part 8 there is inserted, as Part 7A, the Part set out in Schedule 17.
- (2) After Schedule 4 to that Act there is inserted, as Schedules 4ZA and 4ZB, the Schedules set out in Schedules 18 and 19.
- (3) Schedule 20 (which makes amendments consequential on provisions contained in Schedule 17) has effect.

#### **Commencement Information**

- II** [S. 108](#) wholly in force at 6.4.2009; [s. 108](#) not in force at Royal assent see [s. 148\(2\)](#); [s. 108](#) in force at 24.2.2009 for certain purposes and at 6.4.2009 otherwise by [S.I. 2009/382](#), [art. 2](#)

*Status: Point in time view as at 14/03/2012. This version of this part contains provisions that are prospective.*  
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PROSPECTIVE

## CHAPTER 4

### DEBT MANAGEMENT SCHEMES

#### *Introductory*

#### **109 Debt management schemes**

- (1) A debt management scheme is a scheme that meets the conditions in this section.
- (2) The scheme must be open to some or all non-business debtors.
- (3) A scheme is open to a non-business debtor if it allows him to make a request to the scheme operator for a debt repayment plan to be arranged for him.
- (4) The scheme must provide that, if such a request is made—
  - (a) a decision must be made about whether a debt repayment plan is to be arranged for the non-business debtor, and
  - (b) such a plan must be arranged (if that is the decision made).
- (5) The scheme must be operated by a body of persons (whether a body corporate or not).

#### **110 Debt repayment plans**

- (1) A debt repayment plan is a plan that meets the conditions in this section.
- (2) The plan must specify all of the debtor's qualifying debts.
- (3) The plan must require the debtor to make payments in respect of each of the specified debts.
- (4) It does not matter if—
  - (a) the plan requires payments of different amounts to be made in respect of a specified debt at different times;
  - (b) the payments that the plan requires to be made in respect of a specified debt would, if all made, repay the debt only in part.

#### *Approval of schemes*

#### **111 Approval by supervising authority**

- (1) The supervising authority may approve one or more debt management schemes.
- (2) Regulations may make provision about any or all of the following—
  - (a) conditions that must be met before the supervising authority may approve a debt management scheme;
  - (b) considerations that the supervising authority must, or must not, take into account in deciding whether to approve a debt management scheme.

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- (3) Regulations under this section may, in particular, make provision about conditions or considerations that relate to any matter listed in Schedule 21.
- (4) The supervising authority may approve a debt management scheme whether a body is—
  - (a) operating the scheme at the time of the approval, or
  - (b) proposing to operate the scheme from a time in the future.

### **112 Applications for approval**

- (1) Regulations may specify a procedure for making an application for approval of a debt management scheme.
- (2) Regulations under this section may, in particular, specify a procedure that requires any or all of the following—
  - (a) an application to be made in a particular form;
  - (b) information to be supplied in support of an application;
  - (c) a fee to be paid in respect of an application.

### **113 Terms of approval**

- (1) The approval of a debt management scheme has effect subject to any relevant terms.
- (2) Relevant terms are—
  - (a) the terms (if any) specified in regulations that relate to the approval, and
  - (b) the terms (if any) that the supervising authority includes in the approval.
- (3) Relevant terms may, in particular, deal with all or any of the following—
  - (a) the start of the approval;
  - (b) the expiry of the approval;
  - (c) the termination of the approval, including termination because of the breach of some other term.
- (4) Relevant terms may, in particular, impose requirements on the scheme operator.
- (5) Relevant terms may, in particular, relate to any matter listed in Schedule 21.
- (6) Regulations may make provision about terms that the supervising authority must, or must not, include in an approval.

*Effect of plans etc.*

### **114 Discharge from specified debts**

- (1) This section applies if—
  - (a) a debt repayment plan is arranged for a non-business debtor in accordance with an approved scheme, and
  - (b) the plan comes into effect.
- (2) The debtor is discharged from the debts that are specified in the plan.

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- (3) The discharge from a particular specified debt takes effect at the time when all the required payments have been made.
- (4) The required payments are the payments in respect of the debt that are required by the provision included in the plan in accordance with section 110(3).

## 115 Presentation of bankruptcy petition

- (1) This section applies during the currency of a debt repayment plan arranged in accordance with an approved scheme.
- (2) No qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless—
  - (a) regulations provide otherwise, or
  - (b) the creditor has the permission of <sup>F16</sup>the county court].
- (3) <sup>F16</sup>The county court] may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.
- (4) The reference to the currency of a debt repayment plan is a reference to the period which—
  - (a) begins when the plan first has effect, and
  - (b) ends when the plan ceases to have effect.

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### Textual Amendments

**F16** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

## 116 Remedies other than bankruptcy

- (1) This section applies in relation to a non-business debtor during a period of protection.
- (2) No qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt, unless—
  - (a) regulations provide otherwise, or
  - (b) the creditor has the permission of <sup>F16</sup>the county court].
- (3) <sup>F16</sup>The county court] may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.
- (4) This section does not have any effect in relation to bankruptcy proceedings.

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### Textual Amendments

**F16** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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### 117 Charging of interest etc.

- (1) This section applies in relation to a non-business debtor during a period of protection.
- (2) No qualifying creditor is to charge any sum by way of interest, fee or other charge in respect of a qualifying debt, unless—
  - (a) regulations provide otherwise, or
  - (b) the creditor has the permission of [<sup>F16</sup>the county court].
- (3) [<sup>F16</sup>The county court] may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

#### Textual Amendments

**F16** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

### 118 Stopping supplies of gas or electricity

- (1) This section applies in relation to a non-business debtor during a period of protection.
- (2) In relation to the debtor, a domestic utility creditor is any person who—
  - (a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and
  - (b) is a creditor under a qualifying debt that relates to the provision of that supply.
- (3) No domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (7).
- (4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the start of the period of protection.
- (5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—
  - (a) that supply, or
  - (b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.
- (6) The third case is where regulations allow the supply to be stopped.
- (7) The fourth case is where [<sup>F16</sup>the county court] gives permission to stop a supply.
- (8) [<sup>F16</sup>The county court] may give permission for the purposes of subsection (7) subject to such conditions as it thinks fit.
- (9) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986 (c. 44).
- (10) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989 (c. 29).



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### Textual Amendments

**F16** Words in ss. 115-118 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

## 119 Existing county court proceedings to be stayed

- (1) This section applies if these conditions are met—
  - (a) a debt repayment plan is arranged for a non-business debtor in accordance with an approved scheme;
  - (b) proceedings in [<sup>F17</sup>the county court] (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;
  - (c) by virtue of section 116, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;
  - (d) the county court receives notice of the debt repayment plan.
- (2) The county court must stay the proceedings.
- (3) The court may allow costs already incurred by the creditor.
- (4) Subsection (5) applies if—
  - (a) the court allows such costs, and
  - (b) the qualifying debt is a specified debt.
- (5) The operator of the approved scheme may, if requested to do so by—
  - (a) the non-business debtor, or
  - (b) the creditor under the qualifying debt,add the costs to the amount specified in the plan in respect of the debt.
- (6) But the operator may not add the costs under subsection (5) if, under the terms of the approved scheme, the operator is under a duty to terminate the plan.

### Textual Amendments

**F17** Words in s. 119(1)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

## 120 Registration of plans

- (1) Regulations may make provision about the registration of either or both of the following—
  - (a) any request made to the operator of an approved scheme for a debt repayment plan to be arranged in accordance with the scheme;
  - (b) any debt repayment plan arranged for a non-business debtor in accordance with an approved scheme.
- (2) In subsection (1) “registration” means registration in the register maintained under section 98 of the Courts Act 2003 (c. 39) (the register of judgments and orders etc).

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(3) Regulations under this section may amend section 98 of the 2003 Act.

## 121 Other debt management arrangements in force

- (1) This section applies if—
- (a) a debt repayment plan is arranged for a debtor in accordance with an approved scheme, and
  - (b) immediately before the plan is arranged, other debt management arrangements are in force in respect of the debtor.
- (2) The plan is not to come into effect unless the other debt management arrangements cease to be in force.
- (3) Any provision (whether in the plan or elsewhere) about when the plan is to come into effect is subject to subsection (2).
- (4) If the operator of the approved scheme is aware of the other debt management arrangements, the operator must give the relevant authority notice that the plan has been arranged.
- (5) In a case where the operator is aware of other debt management arrangements at the time the plan is arranged, it must give the notice as soon as practicable after the plan is arranged.
- (6) In a case where the operator becomes aware of those arrangements after the plan is arranged, it must give the notice as soon as practicable after becoming aware of them.
- (7) “Other debt management arrangements” means any of the following—
- (a) an administration order under Part 6 of the County Courts Act 1984 (c. 28);
  - (b) an enforcement restriction order under Part 6A of the County Courts Act 1984;
  - (c) a debt relief order under Part 7A of the Insolvency Act 1986 (c. 45).
- (8) “The relevant authority” means—
- [<sup>F18</sup>(aa) in relation to an administration order or an enforcement restriction order: the county court;]
  - (c) in relation to a debt relief order: the official receiver.
- (9) For the purposes of this section a debt relief order is “in force” if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

### Textual Amendments

- F18** S. 121(8)(aa) substituted for (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 136\(a\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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## Appeals

### 122 Right of appeal

- (1) This section applies if a debt repayment plan is arranged for a debtor in accordance with an approved scheme.
- (2) An affected creditor may appeal to [<sup>F19</sup>the county court] against any of the following—
  - (a) the fact that the plan has been arranged;
  - (b) the fact that a debt owed to the affected creditor has been specified in the plan;
  - (c) the terms of the plan (including any provision included in the plan in accordance with section 110(3)).
- (3) Subsection (2)(c) does not allow an affected creditor to appeal against the fact that a debt owed to any other creditor has been specified in the plan.
- (4) In this section “affected creditor” means the creditor under any debt which is specified in the plan.

#### Textual Amendments

**F19** Words in s. 122(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

### 123 Dealing with appeals

- (1) This section applies if an appeal is made to [<sup>F20</sup>the county court] under section 122.
- (2) The county court may determine the appeal in any way that it thinks fit.
- (3) The county court may make such orders as may be necessary to give effect to the determination of the appeal.
- (4) The county court may, in particular, order the scheme operator to do any of the following—
  - (a) to reconsider the decision to arrange the plan;
  - (b) to reconsider any decision about the terms of the plan;
  - (c) to modify the debt repayment plan;
  - (d) to revoke the debt repayment plan.
- (5) The county court may make such interim provision as it thinks fit in relation to the period before the appeal is determined.

<sup>F21</sup>(6) .....

#### Textual Amendments

**F20** Words in s. 123(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

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**F21** S. 123(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 136\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

*Approved schemes: charging*

**124 Charges by operator of approved scheme**

- (1) The operator of an approved scheme may recover its costs by charging debtors or affected creditors (or both).
- (2) In this section—
  - “costs” means the costs which the operator incurs, taking one year with another, in connection with the approved scheme, so far as those costs are reasonable;
  - “debtors” means—
    - (a) debtors who make requests for debt repayment plans to be arranged in accordance with the approved scheme, and
    - (b) debtors for whom debt repayment plans are arranged in accordance with the approved scheme.

*Termination of approval*

**125 Procedure for termination**

- (1) Regulations may specify a procedure for terminating the approval of a debt management scheme.
- (2) Regulations under this section may, in particular, specify a procedure that requires any or all of the following—
  - (a) notice of, or the reasons for, an intended termination to be given (whether to the supervising authority, the scheme operator, the Lord Chancellor or any other person);
  - (b) conditions to be met before a termination takes effect;
  - (c) a particular period of time to elapse before a termination takes effect.

**126 Terminating an approval**

The approval of a debt management scheme may be terminated only if the termination is in accordance with all of the following (so far as they are relevant)—

- (a) any terms to which the approval is subject by virtue of section 113;
- (b) any provision made in regulations under section 125;
- (c) any other provision made in other regulations under this Chapter.

**127 Alternatives to termination**

- (1) Regulations may make provision to allow the supervising authority to deal with a termination case other than by terminating the approval.

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*Status: Point in time view as at 14/03/2012. This version of this part contains provisions that are prospective.*  
**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007, Part 5 is up to date with all changes known to be in force on or before 17 June 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)

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- (2) A termination case is a case in which the supervising authority would be entitled to terminate the approval of a debt management scheme.
- (3) Regulations under this section may, in particular, make provision to allow the supervising authority to transfer the operation of the scheme—
  - (a) to itself, or
  - (b) to any other body.

#### *Effects of end of approval*

### **128 Effects of end of approval**

- (1) Regulations may make provision about the effects if the approval of a debt management scheme comes to an end.
- (2) Regulations under this section may, in particular, make provision about the treatment of debt repayment plans arranged for non-business debtors before the scheme came to an end.
- (3) That includes provision to treat a plan—
  - (a) as though the approval had not come to an end, or
  - (b) as though the plan had been made in accordance with a different approved scheme.
- (4) Regulations under this section may, in particular, make provision about cases where, at the time the scheme comes to an end, the scheme operator is in breach of a relevant obligation.
- (5) That includes provision to ensure that the operator is not released from the relevant obligation by virtue of the termination.
- (6) In subsections (4) and (5) “relevant obligation” means any obligation (including a requirement or condition) however arising, that relates to—
  - (a) the scheme in question (including its operation),
  - (b) the approval of that scheme, or
  - (c) the termination of that approval.

#### *The supervising authority*

### **129 The supervising authority**

- (1) The supervising authority is—
  - (a) the Lord Chancellor, or
  - (b) any person that the Lord Chancellor has authorised to approve debt management schemes under section 111.
- (2) Subsections (3) and (4) apply in any case where an authorisation under subsection (1) (b) starts or ends.
- (3) The start or end of the authorisation does not affect the validity of an approval that is in force at the relevant time.

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**Changes to legislation:** *Tribunals, Courts and Enforcement Act 2007, Part 5 is up to date with all changes known to be in force on or before 17 June 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)*

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- (4) The new supervising authority may exercise all of its functions in relation to an approval that is in force at the relevant time as though it had given the approval itself.
- (5) In this section—  
     “approval” means an approval of a debt management scheme given under section 111;  
     “relevant time” means the time when an authorisation starts or ends.

### *Various*

## **130 Regulations**

- (1) It is for the Lord Chancellor to make regulations.
- (2) The power to make regulations is exercisable by statutory instrument.
- (3) A statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) But subsection (3) does not apply in the case of a statutory instrument that contains either or both of the following—
- (a) the first regulations under a particular section of this Chapter;
  - (b) any regulations under section 118(6);
  - (c) any regulations under section 120 that amend section 98 of the Courts Act 2003 (c. 39);
  - (d) any regulations that amend section 122 or 123.
- (5) In such a case the statutory instrument may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Regulations may make different provision in relation to different cases.
- (7) Regulations may make any or all of the following provision if the Lord Chancellor thinks it is necessary or expedient—
- (a) supplementary, incidental or consequential provision;
  - (b) transitory, transitional or saving provision.
- (8) Provision under subsection (7) may, in particular, amend section 122 or 123 (including by making provision for further grounds of appeal).
- (9) In this section (except in subsection (4)(a) to (c)) “regulations” means regulations under any provision of this Chapter.

## **131 Main definitions**

- (1) In this Chapter—  
     “affected creditor” has the meaning given by section 122;  
     “approved scheme” means a debt management scheme that is approved under section 111;  
     “debt management scheme” has the meaning given by section 109;  
     “debt repayment plan” has the meaning given by section 110;  
     “non-business debtor” means any individual who—

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- (a) is a debtor under one or more qualifying debts, but
  - (b) is not a debtor under any business debts;
- “period of protection” has the meaning given by section 133;  
“qualifying creditor” means a creditor under a qualifying debt;  
“scheme operator” means the body that operates a debt management scheme;  
“specified debt” means a debt specified in a debt repayment plan;  
“supervising authority” has the meaning given by section 129.

F22(2) .....

#### Textual Amendments

**F22** S. 131(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 136\(b\)](#); [S.I. 2014/954](#), art. 2(c) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### 132 Expressions relating to debts

- (1) All debts are qualifying debts, except the following—
  - (a) any debt secured against an asset;
  - (b) in relation to a debt repayment plan which has been requested or arranged, any debt which could not, by virtue of the terms of the debt management scheme, be specified in the plan.
- (2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.

### 133 Periods of protection

- (1) A “period of protection”, in relation to a non-business debtor, is a period which begins and ends as specified in this section.
- (2) The period begins if, and when, the debtor makes a request to the operator of an approved scheme for a debt repayment plan to be arranged in accordance with the scheme.
- (3) The period ends as follows—
  - (a) if a debt repayment plan is not arranged in consequence of the request: when the decision is made not to arrange the plan;
  - (b) if a debt repayment plan is arranged in consequence of the request: when that plan ceases to have effect.
- (4) But if other debt management arrangements are in force in relation to debtor immediately before he makes the request, the period does not begin unless, and until, a debt repayment plan—
  - (a) is arranged in consequence of the request, and
  - (b) comes into effect in accordance with section 121(2).
- (5) In this section the reference to other debt management arrangements which are in force has the same meaning as such references in section 121.

**Status:**

Point in time view as at 14/03/2012. This version of this part contains provisions that are prospective.

**Changes to legislation:**

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