

SCHEDULES

SCHEDULE 4

Article 12(3)

DURATION OF BANKRUPTCY: TRANSITIONAL PROVISIONS

Introduction

1. his Schedule applies to an individual who immediately before commencement—
 - (a) has been adjudged bankrupt, and
 - (b) has not been discharged from the bankruptcy.
2. n this Schedule—

“commencement” means the date appointed under Article 1 for the commencement of Article 12, and

“pre-commencement bankrupt” means an individual to whom this Schedule applies.

Neither old law nor new law to apply

3. Article 253 of the 1989 Order (bankruptcy: discharge) shall not apply to a pre-commencement bankrupt (whether in its pre-commencement or its post-commencement form).

General rule for discharge from pre-commencement bankruptcy

- 4.—(1) A pre-commencement bankrupt is, subject to sub-paragraphs (2) and (3), discharged from bankruptcy at whichever is the earlier of—
 - (a) the end of the period of one year beginning with commencement, and
 - (b) the end of the relevant period applicable to the bankrupt under Article 253(1)(c) of the 1989 Order (duration of bankruptcy) as it had effect immediately before commencement.
- (2) An order made under Article 253(3) of the 1989 Order before commencement—
 - (a) shall continue to have effect in respect of the pre-commencement bankrupt after commencement, and
 - (b) may be varied or revoked after commencement by an order under Article 253(3) as substituted by Article 12 of this Order.
- (3) Article 253(3) to (5) of the 1989 Order as substituted by Article 12 of this Order shall have effect after commencement in relation to the period mentioned in sub-paragraph (1)(a) or (b).

Second-time bankruptcy

- 5.—(1) This paragraph applies to a pre-commencement bankrupt who was an undischarged bankrupt at some time during the period of 15 years ending with the day before the date on which the pre-commencement bankruptcy commenced.
- (2) The pre-commencement bankrupt shall not be discharged from bankruptcy in accordance with paragraph 4.

(3) An order made before commencement under paragraph (2)(b) or (c) of Article 254 of the 1989 Order (discharge by order of the High Court), shall continue to have effect after commencement (including any provision made by the Court by virtue of paragraph (3) of that Article).

(4) A pre-commencement bankrupt to whom this paragraph applies (and in respect of whom no order was in force under Article 254(2)(b) or (c) of the 1989 Order immediately before commencement) is discharged from bankruptcy—

(a) at the end of the period of 5 years beginning with commencement, or

(b) at such earlier time as the High Court may order on an application made to it under sub-paragraph (5).

(5) For the purposes of sub-paragraph (4)(b), the pre-commencement bankrupt may make an application to the Court at any time after the expiration of 5 years from the commencement of the bankruptcy.

(6) Article 253(3) to (5) of the 1989 Order as substituted by Article 12 of this Order shall have effect after commencement in relation to the period mentioned in sub-paragraph (4)(a).

(7) A bankruptcy annulled under Article 256 of the 1989 Order shall be ignored for the purpose of sub-paragraph (1).

Solicitors

6.—(1) This paragraph applies to a pre-commencement bankrupt—

(a) who is a solicitor, and

(b) who is not an individual to whom paragraph 5 applies.

(2) The pre-commencement bankrupt shall not be discharged from bankruptcy in accordance with paragraph 4.

(3) An order made before commencement under paragraph (2)(b) or (c) of Article 254 of the 1989 Order shall continue to have effect after commencement (including any provision made by the Court by virtue of paragraph (3) of that Article).

(4) A pre-commencement bankrupt to whom this paragraph applies (and in respect of whom no order under Article 254(2)(b) or (c) of the 1989 Order was in force immediately before commencement) is discharged from bankruptcy by an order of the High Court on an application made to it under sub-paragraph (5).

(5) For the purposes of sub-paragraph (4), a pre-commencement bankrupt may make an application to the Court at any time.

(6) On an application under sub-paragraph (5), the Court may—

(a) refuse to discharge the bankrupt from bankruptcy,

(b) make an order discharging him absolutely, or

(c) make an order discharging him subject to such conditions with respect to any income which may subsequently become due to him, or with respect to property devolving upon him, or acquired by him, after his discharge, as may be specified in the order.

(7) The Court may provide for an order falling within paragraph (b) or (c) of sub-paragraph (6) to have immediate effect or to have its effect suspended for such period, or until the fulfilment of such conditions (including a condition requiring the Court to be satisfied as to any matter), as may be specified in the order.

Income payments order

- 7.—(1) This paragraph applies where—
- (a) a pre-commencement bankrupt is discharged by virtue of paragraph 4(1)(a), and
 - (b) an income payments order is in force in respect of him immediately before his discharge.
- (2) If the income payments order specifies a date after which it is not to have effect, it shall continue in force until that date (and then lapse).
- (3) But the High Court may on the application of the pre-commencement bankrupt—
- (a) vary the income payments order;
 - (b) provide for the income payments order to cease to have effect before the date referred to in sub-paragraph (2).