



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER I

VOLUNTARY ARRANGEMENTS

Consideration and implementation of proposal

115 Decision of creditors' meeting

- (1) A meeting summoned under section 114 above shall decide whether to approve the composition or scheme proposed by the debtor.
- (2) Such a meeting may approve the proposed composition or scheme with modifications but shall not do so unless the debtor consents to each modification.
- (3) The modifications subject to which the proposed composition or scheme may be approved may include one conferring the functions proposed to be conferred on the nominee on another person qualified to act as an insolvency practitioner in relation to the debtor but shall not include any modification by virtue of which the proposal ceases to be a proposal such as is mentioned in section 110 above.
- (4) Except with the concurrence of the secured creditor concerned, a meeting summoned under section 114 above shall not approve any proposal or modification which affects the right of a secured creditor of the debtor to enforce his security.
- (5) Except with the concurrence of the preferential creditor concerned, a meeting summoned under section 114 above shall not approve any proposal or modification under which—
 - (a) any preferential debt of the debtor is to be paid otherwise than in priority to such of his debts as are not preferential debts; or

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- (b) a preferential creditor of the debtor is to be paid an amount in respect of a preferential debt that bears to that debt a smaller proportion than is borne to another preferential debt by the amount that is to be paid in respect of that other debt.
- (6) Subject to subsections (1) to (5) above, a meeting summoned under section 114 above shall be conducted in accordance with the rules.
- (7) After the conclusion in accordance with the rules of a meeting summoned under section 114 above, the chairman of the meeting shall report the result of the meeting to the court and, immediately after reporting to the court, shall give notice of the result of the meeting to such persons as may be prescribed.
- (8) If a report is given to the court under subsection (7) above that the meeting has declined (with or without modifications) to approve the debtor's proposal the court may discharge any interim order which is in force in relation to the debtor.
- (9) In this section "preferential debt" means any of the debts which in the distribution of a bankrupt's estate are, under section 166 below and Schedule 4 to this Act (read with Schedule 3 to the Social Security Pensions Act 1975), to be paid in priority to all other debts, and "preferential creditor" shall be construed accordingly.
- (10) For the purposes of this section Schedule 4 to this Act and Schedule 3 to the said Act of 1975 shall each have effect, in relation to a debtor who is not an undischarged bankrupt, as if—
 - (a) references to the relevant date were references to the date of the interim order made with respect to his proposal; and
 - (b) references to the debtor being adjudged bankrupt were references to the making of that order.

116 Effect of approval

- (1) This section has effect where a meeting summoned under section 114 above approves a proposed composition or scheme (with or without modifications).
- (2) The approved composition or scheme shall take effect as if made by the debtor at the meeting and shall bind every person who in accordance with the rules had notice of, and was entitled to vote at, the meeting (whether or not he was present or represented at the meeting) as if he were a party to the composition or scheme.
- (3) The Deeds of Arrangement Act 1914 shall not apply to the approved composition or scheme.
- (4) Subject to subsection (5) below, if the debtor is an undischarged bankrupt the court may do one or both of the following, namely—
 - (a) annul the bankruptcy order by which he was adjudged bankrupt;
 - (b) give such directions with respect to the conduct of the bankruptcy and the administration of the bankrupt's estate as it thinks appropriate for facilitating the implementation of the approved composition or scheme.
- (5) The court shall not annul a bankruptcy order under subsection (4) above—
 - (a) at any time before the end of the period of twenty-eight days beginning with the day on which the report with respect to the meeting was made to the court under section 115(7) above ; or

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- (b) at any time when an application under section 117 below or an appeal in respect of such an application is pending or at any time in the period within which such an appeal may be brought.
- (6) Except to such extent as the court may direct for the purposes of any application under section 117 below, any interim order in force in relation to the debtor immediately before the end of the period of twenty-eight days beginning with the day on which the report with respect to the meeting was made to the court under section 115(7) above shall cease to have effect at the end of that period.
- (7) Where proceedings on a bankruptcy petition have been stayed by an interim order which ceases to have effect under subsection (6) above, that petition shall be deemed, unless the court otherwise orders, to have been dismissed.

117 Challenge of meeting's decision

- (1) Subject to the provisions of this section, an application to the court may be made, by any of the persons specified in subsection (2) below, on one or both of the following grounds, namely—
 - (a) that a composition or scheme approved at a meeting summoned under section 114 above unfairly prejudices the interests of a creditor of the debtor ;
 - (b) that there has been some material irregularity at or in relation to such a meeting.
- (2) The persons who shall be entitled to make an application under this section shall be—
 - (a) the debtor;
 - (b) a person entitled, in accordance with the rules, to vote at the meeting in question ;
 - (c) the nominee or any person who has replaced him under section 113(4)(a) or 115(3) above ; and
 - (d) if the debtor is an undischarged bankrupt, the trustee of his estate or the official receiver.
- (3) An application under this section shall not be made after the end of the period of twenty-eight days beginning with the day on which the report with respect to the meeting in question was made to the court under section 115(7) above.
- (4) Where on an application under this section the court is satisfied as to either of the grounds mentioned in subsection (1) above, it may do one or both of the following, namely—
 - (a) revoke or suspend any approval given by the meeting in question;
 - (b) give a direction to any person for the summoning of a further meeting of the debtor's creditors to consider any revised proposal he may make or, in a case falling within subsection (1)(b) above, to reconsider his original proposal.
- (5) Where at any time after giving a direction under subsection (4)(b) above for the summoning of a meeting to consider a revised proposal the court is satisfied that the debtor does not intend to submit such a proposal, the court shall revoke the direction and revoke or suspend any approval given at the previous meeting.
- (6) Where the court gives a direction under subsection (4)(b) above, it may also give a direction continuing or, as the case may require, renewing, for such period as may be specified in the direction, the effect in relation to the debtor of any interim order.

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- (7) In any case where the court, on an application made under this section with respect to any meeting, gives a direction under subsection (4)(b) above or revokes or suspends an approval under subsection (4)(a) or (5) above, the court may give such supplemental directions as it thinks fit and, in particular, directions with respect to—
- (a) things done since the meeting under any composition or scheme approved by the meeting ; and
 - (b) such things done since the meeting as could not have been done if an interim order had been in force in relation to the debtor when they were done.
- (8) Except in pursuance of the preceding provisions of this section, an approval given at a meeting summoned under section 114 above shall not be invalidated by any irregularity at or in relation to the meeting.

118 Implementation and supervision of approved composition or scheme

- (1) This section applies where a composition or scheme approved by a meeting summoned under section 114 above has taken effect.
- (2) The person who is for the time being carrying out in relation to the composition or scheme the functions conferred by virtue of the approval on the nominee, or by virtue of section 113(4)(a) or 115(3) above on a person other than the nominee, shall be known as the supervisor of the composition or scheme.
- (3) If the debtor, any of his creditors or any other person is dissatisfied by any act, omission or decision of the supervisor, he may apply to the court; and on such an application the court may confirm, reverse or modify any act or decision of the supervisor, may give him directions or may make such other order as it thinks fit.
- (4) The supervisor may apply to the court for directions in relation to any particular matter arising under the composition or scheme.
- (5) Without prejudice to section 41(2) of the Trustee Act 1925 (power of court to appoint trustees of deeds of arrangement), the court may, whenever—
 - (a) it is expedient to appoint a person to carry out the functions of the supervisor ; and
 - (b) it is inexpedient, difficult or impracticable for an appointment to be made without the assistance of the court,
 make an order appointing a person who is qualified to act as an insolvency practitioner in relation to the debtor, either in substitution for the existing supervisor or to fill a vacancy.
- (6) The power conferred by subsection (5) above shall be exercisable so as to increase the number of persons exercising the functions of the supervisor or, where there is more than one person exercising those functions, so as to replace one or more of those persons.