



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER I

VOLUNTARY ARRANGEMENTS

Procedure pending consideration of proposal

111 Application for interim order

- (1) An application to the court for an order under section 112 below (in this Chapter referred to as an "interim order ") may be made—
 - (a) if the debtor is an undischarged bankrupt, by the debtor, the trustee of his estate or the official receiver ; and
 - (b) in any other case, by the debtor.
- (2) An application for an interim order shall not be made under subsection (1)(a) above unless the debtor has given notice of his proposal to the official receiver and, if there is one, to the trustee of his estate.
- (3) An application for an interim order shall not be made while a bankruptcy petition presented by the debtor is pending if the court has made an appointment under subsection (2) of section 123 below; and if the court has made such an appointment, it may make an interim order under subsection (5) of that section without an application being made under this section.
- (4) At any time when an application under this section for an interim order is pending the court may stay any action, execution or other legal process against the property or person of the debtor.

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- (5) Any court in which proceedings are pending against an individual may, on proof that an application under this section has been made in respect of that individual, either stay the proceedings or allow them to continue on such terms as it thinks fit.

112 Interim orders

- (1) On an application under section 111 above or in a case falling within section 123(5) below, the court may make an interim order if it thinks that it would be appropriate to do so for the purpose of facilitating the consideration and implementation of the debtor's proposals.
- (2) The court shall not make an interim order on an application under section 111 above unless it is satisfied—
- (a) that the debtor intends to make such a proposal as is mentioned in section 110 above ;
 - (b) that on the day of the making of the application the debtor was an undischarged bankrupt or was able to petition for his own bankruptcy ;
 - (c) that no previous application has been made by the debtor for an interim order in the period of twelve months ending with that day ; and
 - (d) that the nominee is a person who is for the time being qualified to act as an insolvency practitioner in relation to the debtor and is willing to act in relation to the debtor's proposal.
- (3) An interim order shall have the effect that during the period for which it is in force—
- (a) no bankruptcy petition relating to the debtor may be presented or proceeded with ; and
 - (b) no other proceedings and no execution or other legal process may be commenced or continued against the debtor or his property except with the leave of the court.
- (4) Where the debtor is an undischarged bankrupt an interim order may contain provision as to the conduct of the bankruptcy, and the administration of the bankrupt's estate, during the period for which the order is in force.
- (5) Subject to subsection (6) below, the provision contained in an interim order by virtue of subsection (4) above may include provision staying proceedings in the bankruptcy or modifying the provisions of this Part and the rules in their application to the debtor's bankruptcy.
- (6) An interim order shall not, in relation to a bankrupt, make provision relaxing or removing any of the requirements of this Part or of the rules unless the court is satisfied that the provision is unlikely to result in any significant diminution in, or in the value of, the debtor's estate for the purposes of the bankruptcy.
- (7) Subject to the following provisions of this Chapter, an interim order shall cease to have effect—
- (a) if made on an application under section 111 above, at the end of the period of fourteen days beginning with the day after the making of the order ;
 - (b) if made in pursuance of section 123(5) below, at the end of such period as the court may specify for the purpose of enabling the debtor's proposal to be considered by his creditors in accordance with the following provisions of this Chapter.

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113 Report by nominee

- (1) This section applies where an interim order has been made on an application under section 111 above.
- (2) The nominee shall, before the order ceases to have effect, submit a report to the court stating—
 - (a) whether, in his opinion, a meeting of the debtor's creditors should be summoned to consider the debtor's proposal; and
 - (b) if in his opinion such a meeting should be summoned, the date on which, and time and place at which, he proposes the meeting should be held.
- (3) For the purpose of enabling the nominee to prepare his report the debtor shall submit to the nominee—
 - (a) a document setting out the terms of the composition or scheme which the debtor is proposing ; and
 - (b) a statement of his affairs containing—
 - (i) such particulars of his creditors and of his debts and other liabilities and of his assets as may be prescribed; and
 - (ii) such other information as may be prescribed.
- (4) The court may, on an application made by the debtor in a case where the nominee has failed to submit the report required by this section, do one or both of the following, namely—
 - (a) direct that the nominee shall be replaced as such by another person qualified to act as an insolvency practitioner in relation to the debtor ;
 - (b) direct that the order mentioned in subsection (1) above shall continue, or (if it has ceased to have effect) shall be renewed, for such further period as the court may specify in the direction.
- (5) The court may, on the application of the nominee, extend the period for which the order mentioned in subsection (1) above has effect so as to enable the nominee to have more time to prepare the report required by this section.
- (6) If the court is satisfied on receiving the report required by this section that a meeting of the debtor's creditors should be summoned to consider the debtor's proposal, the court shall direct that the period for which the order mentioned in subsection (1) above has effect shall be extended, for such further period as it may specify in the direction, for the purpose of enabling the debtor's proposal to be considered by his creditors in accordance with the following provisions of this Chapter.
- (7) The court may discharge the order mentioned in subsection (1) above if it is satisfied, on the application of the nominee—
 - (a) that the debtor has failed to comply with his obligations under subsection (3) above ; or
 - (b) that for any other reason it would be inappropriate for a meeting of the debtor's creditors to be summoned to consider the debtor's proposal.

114 Summoning of creditors' meeting

- (1) Where the court has made an interim order and after the making of the order or, as the case may be, with a view to its being made a person has reported to the court under section 113 above or section 123(3) below that a meeting of the debtor's creditors

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should be summoned, that person shall, unless the court otherwise directs, summon that meeting for the time, date and place proposed in his report.

- (2) The persons who shall be summoned to a meeting of creditors under this section shall be every creditor of the debtor of whose claim and address the person summoning the meeting is aware.
- (3) For the purposes of a meeting under this section the creditors of a debtor who is an undischarged bankrupt shall include every person who is a creditor of the bankrupt in respect of a bankruptcy debt and every person who would be such a creditor if the bankruptcy had commenced on the day on which notice of the meeting is given.