Insolvency Act 1986

1986 CHAPTER 45

[F1 PART 7A

DEBT RELIEF ORDERS

[F1 Objections, investigations and revocation

Textual Amendments

F1 Pt. 7A inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 108(1), 148(5), **Sch. 17**; S.I. 2009/382, **art. 2**

251K Objections and investigations

(1) Any person specified in a debt relief order as a creditor to whom a specified qualifying debt is owed may object to—

(a) the making of the order;

(b) the inclusion of the debt in the list of the debtor's qualifying debts; or

(c) the details of the debt specified in the order.

(2) An objection under subsection (1) must be—

(a) made during the moratorium period relating to the order and within the prescribed period for objections;

(b) made to the official receiver in the prescribed manner;

(c) based on a prescribed ground;

(d) supported by any information and documents as may be prescribed;

and the prescribed period mentioned in paragraph (a) must not be less than 28 days after the creditor in question has been notified of the making of the order.

(3) The official receiver must consider every objection made to him under this section.

(4) The official receiver may—

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(a) as part of his consideration of an objection, or
(b) on his own initiative,

carry out an investigation of any matter that appears to the official receiver to be relevant to the making of any decision mentioned in subsection (5) in relation to a debt relief order or the debtor.

(5) The decisions to which an investigation may be directed are—
(a) whether the order should be revoked or amended under section 251L;
(b) whether an application should be made to the court under section 251M; or
(c) whether any other steps should be taken in relation to the debtor.

(6) The power to carry out an investigation under this section is exercisable after (as well as during) the moratorium relating to the order.

(7) The official receiver may require any person to give him such information and assistance as he may reasonably require in connection with an investigation under this section.

(8) Subject to anything prescribed in the rules as to the procedure to be followed in carrying out an investigation under this section, an investigation may be carried out by the official receiver in such manner as he thinks fit.

251L Power of official receiver to revoke or amend a debt relief order

(1) The official receiver may revoke or amend a debt relief order during the applicable moratorium period in the circumstances provided for by this section.

(2) The official receiver may revoke the order on the ground that—
(a) any information supplied to him by the debtor—
(i) in, or in support of, the application, or
(ii) after the determination date,
was incomplete, incorrect or otherwise misleading;
(b) the debtor has failed to comply with a duty under section 251J;
(c) a bankruptcy order has been made in relation to the debtor; or
(d) the debtor has made a proposal under Part 8 (or has notified the official receiver of his intention to do so).

(3) The official receiver may revoke the order on the ground that he should not have been satisfied—
(a) that the debts specified in the order were qualifying debts of the debtor as at the application date;
(b) that the conditions specified in Part 1 of Schedule 4ZA were met;
(c) that the conditions specified in Part 2 of that Schedule were met or that any failure to meet such a condition did not prevent his making the order.

(4) The official receiver may revoke the order on the ground that either or both of the conditions in paragraphs 7 and 8 of Schedule 4ZA (monthly surplus income and property) are not met at any time after the order was made.

For this purpose those paragraphs are to be read as if references to the determination date were references to the time in question.

(5) Where the official receiver decides to revoke the order, he may revoke it either—

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(a) with immediate effect, or

(b) with effect from such date (not more than three months after the date of the decision) as he may specify.

(6) In considering when the revocation should take effect the official receiver must consider (in the light of the grounds on which the decision to revoke was made and all the other circumstances of the case) whether the debtor ought to be given the opportunity to make arrangements for making payments towards his debts.

(7) If the order has been revoked with effect from a specified date the official receiver may, if he thinks it appropriate to do so at any time before that date, revoke the order with immediate effect.

(8) The official receiver may amend a debt relief order for the purpose of correcting an error in or omission from anything specified in the order.

(9) But subsection (8) does not permit the official receiver to add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.

(10) The rules may make further provision as to the procedure to be followed by the official receiver in the exercise of his powers under this section.**]**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by S.I. 2017/1119 Sch. 3 para. 1
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by S.I. 2022/1172 Regulations

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by 2018 c. 14 s. 1(3)(b)