



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 10

#### INSOLVENCY

##### *Position of creditors*

#### **125 Ability for creditors to opt not to receive certain notices: individual insolvency**

- (1) The Insolvency Act 1986 is amended as follows.
- (2) For the italic heading before section 379B substitute— “ Giving of notices etc by office-holders ”.
- (3) After section 379B insert—

##### **“379C Creditors' ability to opt out of receiving certain notices**

- (1) Any provision of the rules which requires an office-holder to give a notice to creditors of an individual does not apply, in circumstances prescribed by the rules, in relation to opted-out creditors.
- (2) Subsection (1)—
  - (a) does not apply in relation to a notice of a distribution or proposed distribution to creditors;
  - (b) is subject to any order of the court requiring a notice to be given to all creditors (or all creditors of a particular category).
- (3) Except as provided by the rules, a creditor may participate and vote in a creditors' decision procedure or a deemed consent procedure even though, by virtue of being an opted-out creditor, the creditor does not receive notice of it.

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**Changes to legislation:** There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Section 125. (See end of Document for details)

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(4) In this section—

“give” includes deliver, furnish or send;

“notice” includes any document or information in any other form;

“office-holder”, in relation to an individual, means—

- (a) where a bankruptcy order is made against the individual, the official receiver or the trustee in bankruptcy;
- (b) where an interim receiver of the individual's property is appointed, the interim receiver;
- (c) the supervisor of a voluntary arrangement approved under Part 8 in relation to the individual.”

(4) After section 383 insert—

**“383A “Opted-out creditor”**

(1) For the purposes of this Group of Parts “opted-out creditor” in relation to an office-holder for an individual means a person who—

- (a) is a creditor of the individual, and
- (b) in accordance with the rules has elected (or is deemed to have elected) to be (and not to cease to be) an opted-out creditor in relation to the office-holder.

(2) In this section, “office-holder”, in relation to an individual, means—

- (a) where a bankruptcy order is made against the individual, the official receiver or the trustee in bankruptcy;
- (b) where an interim receiver of the individual's property is appointed, the interim receiver;
- (c) the supervisor of a voluntary arrangement approved under Part 8 in relation to the individual.”

(5) In Schedule 9 (provisions capable of inclusion in individual insolvency rules), after paragraph 7 insert—

“7A Provision for enabling a creditor of an individual to elect to be, or to cease to be, an opted-out creditor in relation to an office-holder for the individual (within the meaning of section 383A), including, in particular, provision—

- (a) for requiring an office-holder to provide information to creditors about how they may elect to be, or cease to be, opted-out creditors;
- (b) for deeming an election to be, or cease to be, an opted-out creditor in relation to a particular office-holder for an individual to be such an election also in relation to any other office-holder for the individual.”

**Commencement Information**

**I1** S. 125 in force at 26.5.2015 for specified purposes by [S.I. 2015/1329, reg. 3\(d\)](#)

**I2** S. 125 in force at 6.4.2017 for E.W. in so far as not already in force by [S.I. 2016/1020, reg. 4\(d\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Section 125.