
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 9

DEBT RELIEF ORDERS

CHAPTER 1

Interpretation

[Notes: (1) a debt relief order under Part 7A of the Act may be made in respect of “qualifying debts” (as defined in section 251A(2)); these do not include “excluded debts” which are prescribed by rule 9.2 for the purposes of section 251A(4).

(2) “approved intermediaries” and “competent authority” are defined in section 251U of the Act for purposes of Part 7A of the Act.]

Debtor’s family

9.1. In this Part the expression “debtor’s family” has the same meaning in relation to a debtor as it has in section 385(1) in relation to a bankrupt.

Excluded debts

9.2.—(1) For the purposes of Part 7A(1) of the Act debts of the following descriptions are prescribed under section 251A(4) as “excluded debts”—

- (a) any fine imposed for an offence and any obligation (including an obligation to pay a lump sum or to pay costs) arising under an order made in family proceedings or any obligation arising under a maintenance assessment or maintenance calculation made under the Child Support Act 1991(2);
- (b) any debt or liability to which a debtor is or may become subject in respect of any sum paid or payable to the debtor as a student by way of a loan and which the debtor receives whether before or after the debt relief order is made;
- (c) any obligation arising under a confiscation order made under section 1 of the Drug Trafficking Offences Act 1986(3), section 1 of the Criminal Justice (Scotland) Act 1987(4), section 71 of the Criminal Justice Act 1988(5), or Parts 2, 3 or 4 of the Proceeds of Crime Act 2002(6);

(1) Part 7A of the Act (sections 251A to 251X) was inserted by Schedule 17 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

(2) 1991 c.48.

(3) 1986 c.32; repealed by Schedule 3 to the Drug Trafficking Act 1994 (c.37).

(4) 1987 c.41; repealed by Schedule 5 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).

(5) 1988 c.33; repealed by Schedule 12 to the Proceeds of Crime Act 2002 (c.29) with savings in articles 10 and 13 of S.I. 2003/333.

(6) 2002 c.29; relevant amendments are made by paragraph 75(1) and (2) of Part 2 of Schedule 3 to the Criminal Justice Act 2003 (c.44), Part 1 of Schedule 8 and paragraphs 1 and 2 of Schedule 14 to the Serious Crime Act 2007 (c.27) and paragraphs 11 and 12 of the Schedule to the Prevention of Social Housing Fraud Act 2013 (c.3).

- (d) any debt which consists of a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, or to pay damages by virtue of Part 1 of the Consumer Protection Act 1987(7), being in either case damages in respect of the death of or personal injury (including any disease or other impairment of physical or mental condition) to any person; and
 - (e) any obligation arising from a payment out of the social fund under section 138(1)(b) of the Social Security Contributions and Benefits Act 1992(8) by way of crisis loan or budgeting loan.
- (2) In paragraph (1)(a) “family proceedings” and “fine” have the meanings given by section 281(8) (which applies the Magistrates’ Courts Act 1980(9) and the Matrimonial and Family Proceedings Act 1984)(10).
- (3) In paragraph (1)(b) “loan” means a loan made under—
- (a) regulations made under section 22(1) of the Teaching and Higher Education Act 1998(11); or
 - (b) the Education (Student Loans) Act 1990, or that Act as it continues in force by virtue of any savings made, in connection with its repeal by the Teaching and Higher Education Act 1998(12), by an order made under section 46(4) of that Act; and
 - (c) includes any interest on the loan and any penalties or charges incurred in connection with it.

(7) 1987 c.43.

(8) 1992 c.4; section 138(1)(b) was repealed by section 71 of the Welfare Reform Act 2012 (c.5).

(9) 1980 c.42.

(10) 1984 c.42.

(11) 1998 c.30; section 22(1) was amended by section 146(2)(a) of the Learning and Skills Act 2002 (c.21).

(12) 1990 c.6; repealed by the Teaching and Higher Education Act 1998 (c.30).