
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 9

DEBT RELIEF ORDERS

CHAPTER 2

Application for a debt relief order

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application for a debt relief order: information required in the application

9.3.—(1) An application for a debt relief order under section 251A must state the matters set out in paragraphs (2) to (9) (which are prescribed for the purposes of section 251B(2)(c)) as they are at the date of the application as well as the matters referred to in section 251B(2)(a) (list of the debtor's debts at the date of the application) and 251B(2)(b) (details of any security held in respect of those debts).

- (2) The application must identify the debtor and state—
- (a) the debtor's occupation (if any);
 - (b) the debtor's gender;
 - (c) the debtor's date of birth;
 - (d) the debtor's places of residence during the three years before the date of the application;
 - (e) any other name used by the debtor for any purpose;
 - (f) the name, address and nature of any business carried on by the debtor, including any business carried on by—
 - (i) a firm or partnership of which the debtor is a member;
 - (ii) an agent or manager for the debtor or for such firm or partnership;
 - (g) any other liabilities (including those imposed by an order of the court) to which the debtor is subject;
 - (h) the address of the creditor to whom each debt is owed;
 - (i) the total amount of the debtor's monthly income from all sources (see rule 9.7(1));
 - (j) the sources of that income and the amount from each source;
 - (k) particulars of the expenditure which the debtor claims is necessary to meet the monthly reasonable domestic needs of the debtor and the debtor's family, including the purpose and the amount of that expenditure;
 - (l) the total amount available from any source to meet the claimed monthly reasonable domestic needs of the debtor and the debtor's family (see rule 9.7(2)); and
 - (m) particulars of the debtor's property and its total estimated value (see rules 9.8 and 9.9).

- (3) The debtor must also state in the application—
- (a) whether or not at the date of the application the debtor —
 - (i) has given a preference to any person during the period of two years ending with the application date,
 - (ii) has entered into a transaction with any person at an undervalue during the period of two years ending with the application date,
 - (iii) is domiciled in England and Wales,
 - (iv) at any time during the period of three years ending with the application date—
 - (aa) was resident,
 - (bb) had a place of residence, or
 - (cc) carried on business,in England and Wales,
 - (v) is an undischarged bankrupt,
 - (vi) is subject to a debt relief order,
 - (vii) has been subject to a debt relief order in the six years ending with the application date,
 - (viii) is subject to an interim order or an IVA under Part 8(1) of the Act, or
 - (ix) is subject to a bankruptcy restrictions order or undertaking or debt relief restrictions order or undertaking; and
 - (b) whether at the date of the application—
 - (i) a bankruptcy petition has been presented against the debtor,
 - (ii) a bankruptcy application has been made by the debtor,
 - (iii) any debt management arrangements (see section 251F) are in force in relation to the debtor, and
 - (iv) any other legal action has been taken against the debtor in relation to any of the debtor's existing debts.
- (4) In the application, the debtor must deduct from each debt all trade and other discounts which are available to the debtor, except any discount for immediate or early settlement.
- (5) Where any debts were incurred or are payable in a foreign currency, the amount of those debts must be converted into sterling at a single exchange rate for that currency prevailing on the relevant date.
- (6) A creditor who considers that the rate is unreasonable may apply to the court.
- (7) If the court finds that the rate is unreasonable it may itself determine the rate.
- (8) Where a debt consists of unpaid payments of a periodical nature, the amount of the debt will consist of any amounts due and unpaid up to the application date.
- (9) Where at the application date any payment was accruing due, the amount of the debt will be so much as would have fallen due at that date, if accruing from day to day.
- (10) A debtor may include a debt of which payment is not yet due at the date of the application if it is for a liquidated sum payable at some certain future time.
- (11) In the application, the debtor must also—

(1) Part 8 is amended by paragraph 2 of Schedule 6 to the Deregulation Act 2015 c.20, paragraphs 2 to 4 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24) and sections 134 and 135 and paragraphs 61 to 72 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c.26).

- (a) consent to the official receiver making checks for the purpose of verifying that the debtor complies with the conditions to which the making of a debt relief order is subject;
- (b) state that the debtor is unable to pay the debts;
- (c) request a debt relief order; and
- (d) indicate the date on which the application is completed.

(12) The debtor must deliver to the approved intermediary such information and such documents as will enable the intermediary to substantiate the information in the application, including information about each debt, the amount of the debt and the name and address of the creditor.

Delivery of application

9.4.—(1) An application for a debt relief order must be completed and delivered to the official receiver in electronic form and by electronic means.

(2) The preconditions for delivering a document electronically set out in rule 1.45(2) do not apply to applications for debt relief orders.

(3) In the event of any malfunction or error in the operation of the electronic form or means of delivery, the official receiver must inform the competent authorities and approved intermediaries—

- (a) that approved intermediaries may complete and deliver applications in hard copy for a specified period; and
- (b) of the postal address to which such applications are to be delivered and of any terms or conditions to which the use of the address is subject.

(4) Such an application completed in hard copy may not be delivered by fax.

Role of approved intermediary

9.5.—(1) The approved intermediary, through whom the application for a debt relief order is to be made, must create an application for a debt relief order in the name of the debtor as soon as reasonably practicable after being asked by the debtor to do so.

(2) The approved intermediary may assist the debtor—

- (a) to identify what information is required to complete the application;
- (b) based upon the documentation and information supplied by the debtor, to ascertain whether—
 - (i) the debtor appears to have debts not exceeding the prescribed amount,
 - (ii) the debtor's surplus income does not exceed the prescribed amount, and
 - (iii) the value of the debtor's property does not exceed the prescribed amount; and
- (c) to ensure that the application (if made) is completed in full.

(3) The approved intermediary must draw the debtor's attention to—

- (a) all the conditions to which an application for, and the making of, a debt relief order is subject;
- (b) the possible consequences of the debtor making any false representation or omission in the application; and
- (c) the fact that verification checks will be made for the purpose of verifying that the debtor complies with the conditions to which the making of a debt relief order is subject and the requirement for the debtor to consent to such checks being made.

(4) The approved intermediary must deliver the application to the official receiver as soon as reasonably practicable after being instructed by the debtor to do so.

Status: *This is the original version (as it was originally made).*
