

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: INSOLVENCY

Voluntary arrangements

Section 134: Time limit for challenging IVAs

761. This section amends section 262(3) of the Insolvency Act 1986 so that a challenge to the outcome of a process whereby creditors consider an individual voluntary arrangement, where there was no previous interim order, must be made within 28 days of the date of the decision. Like section 262, this section extends only to England and Wales.
762. Interested parties such as creditors may challenge the outcome of a process where an individual voluntary arrangement is considered, on the grounds either that there is an unfair prejudice of interests, or that there has been some kind of material irregularity.
763. In cases where the court has made an interim order protecting the debtor from action prior to consideration of the proposal, the time limit for this challenge is 28 days from the date on which the report of the decision is filed with the court
764. However in most other situations there is no equivalent time limit prescribed where the court has not made an interim order. The amendment seeks to provide a time limit of 28 days for those situations.
765. This section will come into force at the end of the period of two months beginning with the day on which the Bill becomes an Act.

Section 135: Abolition of fast-track voluntary arrangements

766. Fast-track voluntary arrangements (FTVA) are a streamlined Individual Voluntary Arrangement (IVA) procedure for cases where a debtor has already been made bankrupt. They were first introduced in April 2004, along with other changes to the personal insolvency regime included within the Enterprise Act 2002.
767. In a FTVA the official receiver acts as nominee and supervisor. One of the requirements of an FTVA is that the debtor is an undischarged bankrupt at the time the proposal is made. There is no private sector insolvency practitioner involvement in FTVAs.
768. FTVAs have been little used since they were enacted, and in the last 4 years there have only been 4 FTVAs approved.
769. This section amends Part 8 of the Insolvency Act 1986 by removing the provisions for FTVAs.

*These notes refer to the Small Business, Enterprise and Employment
Act 2015 (c.26) which received Royal Assent on 26 March 2015*

770. Individuals who are undischarged bankrupts who wish to propose an IVA will still be able to do so, but an insolvency practitioner will act as nominee and supervisor, not the official receiver.