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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 9**

**DEBT RELIEF ORDERS**

**CHAPTER 5**

**Objection and revocation**

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

**Meaning of “creditor”**

**9.14.** In this Chapter, “creditor” means a person specified in a debt relief order as a creditor to whom a qualifying debt is owed.

**Creditor’s objection to a debt relief order (section 251K)**

**9.15.—(1)** The prescribed period under section 251K(2)(a) for a creditor to object to a debt relief order during the moratorium period is within 30 days of the date on which a notice of the making of the order was delivered to the creditor.

- (2) The objection must be made in writing to the official receiver and must contain—
- (a) the name and address of the creditor;
  - (b) the name of the debtor and the reference number of the order;
  - (c) the matters under section 251K to which the creditor objects;
  - (d) a statement of which of the prescribed grounds for objection the creditor relies upon;
  - (e) a statement of the facts on which the creditor relies; and
  - (f) information and documents in support of the grounds and the facts on which the creditor relies.
- (3) The prescribed grounds for objection are that—
- (a) there is an error in, or an omission from, something specified in the debt relief order;
  - (b) a bankruptcy order has been made in relation to the debtor;
  - (c) the debtor has made a proposal under Part 8 of the Act<sup>(1)</sup>;
  - (d) the official receiver should not have been satisfied that—
    - (i) the debts specified in the order were qualifying debts of the debtor as at the application date,

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<sup>(1)</sup> 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).

- (ii) the conditions specified in Part 1 of Schedule 4ZA(2) were met, or
- (iii) the conditions specified in Part 2 of that Schedule were met; or
- (e) the official receiver should have been satisfied that the official receiver was permitted to make an order in spite of any failure to meet the conditions referred to in sub-paragraphs (d)(ii) and (iii).

#### **Official receiver's response to objection under section 251K**

**9.16.**—(1) After considering a creditor's objection to a debt relief order in accordance with section 251K, the official receiver, if minded to revoke or amend the debt relief order, must deliver to the debtor—

- (a) particulars of the objection;
- (b) the grounds and facts upon which the creditor relies;
- (c) an invitation to the debtor to deliver any comments on them to the official receiver within 21 days of delivery of the particulars; and
- (d) the address to which the debtor's comments must be delivered.

(2) Before deciding whether to revoke or amend the debt relief order, the official receiver must consider any comments made by the debtor provided they are received within the 21 day period.

(3) After coming to a decision on the objection the official receiver must deliver a notice of the decision to the creditor within 14 days.

(4) If the official receiver has decided to make an application under section 251M(2) then the official receiver must treat the creditor as a person interested in the application under rule 9.21(3) (b) (if the creditor would not otherwise be such).

#### **Creditor's request that a debt relief order be revoked (section 251L(4))**

**9.17.**—(1) A creditor may request that the official receiver revoke a debt relief order under section 251L(4) because either or both of the conditions in paragraphs 7 and 8 of Schedule 4ZA are not met at any time after the debt relief order was made.

(2) The request must contain—

- (a) the name and address of the creditor;
- (b) the name of the debtor and the reference number of the order;
- (c) which of the conditions under paragraph 7 and 8 of Schedule 4ZA are not met;
- (d) a statement of the facts on which the creditor relies; and
- (e) information and documents supporting the facts which are relied upon.

(3) After coming to a decision on the request the official receiver must deliver a notice of the decision to the creditor within 14 days.

(4) If the official receiver has decided to make an application under section 251M(2) then the official receiver must treat the creditor as a person interested in the application under rule 9.21(3) (b) (if the creditor would not otherwise be such).

#### **Procedure in revoking or amending a debt relief order (section 251L)**

**9.18.**—(1) The official receiver must as soon as reasonably practicable after deciding to revoke a debt relief order under section 251L deliver notice of the decision to the debtor and the creditors.

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(2) Paragraph 3 of Schedule 4ZA is substituted by paragraph 62 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

- (2) The notice must contain—
  - (a) identification details for the debtor;
  - (b) the date and reference number of the debt relief order;
  - (c) the reasons for revocation; and
  - (d) the date (under subsection (5) or (7) of section 251L) on or from which the revocation has effect.
- (3) Where the official receiver —
  - (a) has delivered notices under paragraph (1) of the revocation of a debt relief order from a specified date; and
  - (b) thinks it appropriate under section 251L(7) to revoke the debt relief order with immediate effect before the specified date;

the official receiver must deliver a notice of the new date to anyone who previously received a notice under paragraph (1).

(4) The official receiver must cause the entry in the individual insolvency register relating to the order to be amended so far as information concerning the order has not already been deleted under rule 11.19.

(5) Where the debtor has died during the moratorium period rule 9.20 applies.

(6) The official receiver must as soon as reasonably practicable after amending a debt relief order deliver a notice of the amendment to the debtor and the creditors.

- (7) The notice must contain—
  - (a) identification details for the debtor and the date and reference number of the debt relief order;
  - (b) the amendment;
  - (c) the date on which the amendment was made; and
  - (d) the reasons for it.

(8) The official receiver must as soon as reasonably practicable cause the entry in the individual insolvency register relating to the amended debt relief order to be amended accordingly.

#### **Debtor’s notification of official receiver of matters in section 251J(3) or (5)**

**9.19.**—(1) The debtor must deliver a notice to the official receiver as soon as reasonably practicable after the debtor becomes aware of an error in, or omission from, the information supplied to the official receiver in, or in support of, the application.

(2) The notice must state the nature of the error or omission and the reason for it.

(3) The debtor must deliver a notice to the official receiver as soon as reasonably practicable after the debtor becomes aware of a change in the debtor’s circumstances between the application date and the determination date that would affect (or would have affected) the determination of the application.

(4) The notice must state the nature of the change and the date of the change.

(5) Where a debt relief order is made and—

- (a) the debtor’s income increases during the moratorium period applicable to the order, the debtor must as soon as reasonably practicable after the date of the increase deliver a notice to the official receiver stating—
  - (i) the amount of the increase,
  - (ii) the reason for it,

- (iii) the date of the increase, and
  - (iv) its expected duration;
- (b) the debtor acquires property or property is devolved upon the debtor during that period, the debtor must as soon as reasonably practicable after the date of the acquisition or devolution deliver a notice to the official receiver stating—
  - (i) the nature of the acquisition or devolution,
  - (ii) the date of the acquisition or devolution,
  - (iii) the reason for it, and
  - (iv) its value;
- (c) the debtor becomes aware of any error in or omission from any information supplied by the debtor to the official receiver after the determination date, the debtor must as soon as reasonably practicable after the date on which the debtor becomes aware of it deliver a notice to the official receiver, stating—
  - (i) the nature of the error or omission,
  - (ii) the reason for it, and
  - (iii) the date on which the debtor became aware of it.

**Death of debtor during a moratorium period under a debt relief order**

**9.20.**—(1) This rule applies where a debtor dies during a moratorium period under a debt relief order.

(2) The official receiver must, as soon as reasonably practicable after being informed of the death of the debtor—

- (a) cause a note of the fact and the date of the death to be entered on the individual insolvency register under rule 11.23;
  - (b) revoke the debt relief order; and
  - (c) deliver a notice of the revocation to—
    - (i) the creditors, and
    - (ii) the personal representatives of the debtor.
- (3) The notice of revocation must—
- (a) state the reason for the revocation; and
  - (b) specify the date on which the revocation took effect.