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(3) 1986 c.32; repealed by Schedule 3 to the Drug Trafficking Act 1994 (c.37).

(4) 1987 c.41; repealed by Schedule 5 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).

(5) 1988 c.33; repealed by Schedule 12 to the Proceeds of Crime Act 2002 (c.29) with savings in articles 10 and 13 of S.I. 2003/333.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

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;

(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).

- (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(13) 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.

(13) 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).

(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—

- (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.

CHAPTER 3

Verifying the application and determining the debtor's income and property

Prescribed verification checks: conditions in paragraphs 1 to 8 of Schedule 4ZA of the Act

9.6.—(1) For the purposes of section 251D(4) and (5) and the conditions in paragraphs 1 to 8 of Schedule 4ZA(14) of the Act, the prescribed verification checks are those searches or enquiries specified in this rule.

(2) For the purpose of verifying a debtor's connection with England and Wales on the application date, verification checks made in, or with, one or more of the following—

- (a) the electoral registers for the areas in England and Wales in which the debtor claims to reside or to carry on business or to have resided or carried on business at the date of the application;
- (b) the individual insolvency register;
- (c) the bankruptcy restrictions register;
- (d) the debt relief restrictions register;
- (e) a credit reference agency.

(3) Verification checks made in one or more of the registers specified in paragraph (4), for the purpose of verifying that a debtor—

- (a) is not, on the determination date—
 - (i) an undischarged bankrupt,
 - (ii) subject to a bankruptcy restrictions order or undertaking,
 - (iii) subject to a debt relief restrictions order or undertaking,
 - (iv) subject to an IVA; or
- (b) has not been the subject of a debt relief order in the period of six years ending with the determination date.

(4) The registers referred to in paragraph (3) are—

- (a) the individual insolvency register;
- (b) the bankruptcy restrictions register; and

(14) Paragraph 3 of Schedule 4ZA is substituted by paragraph 62 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24).

- (c) the debt relief restrictions register.
- (5) Verification checks made in, or with, one or more of the sources specified in paragraph (6) for the purpose of verifying—
 - (a) that the debtor is not subject to an interim order on the determination date;
 - (b) whether a creditor’s bankruptcy petition has been presented against the debtor before the determination date;
 - (c) whether the debtor has made a bankruptcy application before the determination date;
 - (d) whether proceedings in relation to any such bankruptcy application have finally been disposed of before the determination date;
 - (e) where a creditor’s bankruptcy petition has been presented against the debtor before the determination date, the status of the proceedings in relation to the petition and whether the person who presented the petition has consented to the making of the application for a debt relief order.
- (6) The sources are—
 - (a) the individual insolvency register;
 - (b) county or other court records;
 - (c) a credit reference agency.
- (7) Verification checks made with a credit reference agency, for the purpose of verifying that each of the following does not exceed the prescribed amount—
 - (a) the amount of the debtor’s overall indebtedness;
 - (b) the amount of the debtor’s monthly surplus income; or
 - (c) the total value of the debtor’s property.

Determination of debtor’s monthly surplus income

9.7.—(1) For the purposes of this Part, the income of a debtor comprises every payment in the nature of income which is from time to time made to the debtor or to which the debtor from time to time becomes entitled, including any payment in respect of the carrying on of a business or in respect of an office or employment and any payment under a pension scheme.

(2) In determining the monthly surplus income of a debtor, the official receiver must take into account any contribution made by a member of the debtor’s family to the amount necessary for the reasonable domestic needs of the debtor and the debtor’s family.

Determination of value of the debtor’s property (paragraph 8 of Schedule 4ZA)

9.8.—(1) The official receiver in determining the total value of the debtor’s property for the purposes of determining whether the condition in paragraph 8 of Schedule 4ZA is met must treat as a debtor’s property for the purposes of this Part—

- (a) all property belonging to or vested in the debtor on the determination date; and
 - (b) any property which by virtue of any of the following provisions of this Part is comprised in or is treated as falling within the preceding sub-paragraph.
- (2) For the purposes of this Part—
- (a) property, in relation to a debtor, includes references to any power exercisable by the debtor over or in relation to property except in so far as the power is exercisable over or in relation to property which is not or is deemed not for the time being to be the property of the debtor and cannot be exercised for the benefit of the debtor;

- (b) a power exercisable over or in relation to property is deemed for the purposes of this Part to vest in the person entitled to exercise it at the time of the transaction or event by virtue of which it is exercisable by that person (whether or not it becomes so exercisable at that time);
- (c) property belonging to or vested in the debtor so belongs or vests in the debtor subject to the rights of any person other than the debtor (whether as a secured creditor of the debtor or otherwise).

(3) In determining the value of the debtor's property the descriptions of property set out in rule 9.9 must be excluded.

Property to be excluded in determining the value of a debtor's property

9.9.—(1) For the purposes of determining the value of a person's property under rule 9.8, the official receiver must disregard—

- (a) a single domestic motor vehicle belonging to or vested in the debtor if—
 - (i) it has been especially adapted for use by the debtor because of a physical impairment that has a substantial and long-term adverse effect on the debtor's ability to carry out normal day-to-day activities, subject to paragraph (2), or
 - (ii) the maximum potential realisable value of the vehicle is less than £1,000 (the prescribed amount);
- (b) subject to paragraph (3), such tools, books and other items of equipment as are necessary to the debtor for use personally in the debtor's employment, business or vocation;
- (c) subject to paragraph (3), such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and the debtor's family;
- (d) property held by the debtor on trust for any other person;
- (e) the right of nomination to a vacant ecclesiastical benefice;
- (f) a tenancy which is an assured tenancy or an assured agricultural occupancy, within the meaning of Part 1 of the Housing Act 1988⁽¹⁵⁾, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977⁽¹⁶⁾;
- (g) a protected tenancy, within the meaning of the Rent Act 1977, in relation to which, by virtue of any provision of Part 9 of that Act, no premium can lawfully be required as a condition of assignment;
- (h) a tenancy of a dwelling-house by virtue of which the debtor is, within the meaning of the Rent (Agriculture) Act 1976⁽¹⁷⁾, a protected occupier of the dwelling-house, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977;
- (i) a secure tenancy, within the meaning of Part 4 of the Housing Act 1985⁽¹⁸⁾, which is not capable of being assigned, except in the cases mentioned in section 91(3) of that Act; and
- (j) any right of the debtor under an approved pension arrangement (as defined by section 11 of the Welfare Reform and Pensions Act 1999 ⁽¹⁹⁾).

(2) The amount the official receiver must disregard under paragraph (1)(a)(i) is limited to the value of a reasonable replacement where it appears to the official receiver that the realisable value of the vehicle to be disregarded exceeds the cost of a reasonable replacement for it.

⁽¹⁵⁾ 1998 c.50.

⁽¹⁶⁾ 1977 c.42.

⁽¹⁷⁾ 1976 c.80.

⁽¹⁸⁾ 1985 c.68.

⁽¹⁹⁾ 1999 c 30; section 11 is amended by S.I. 2006/745.

(3) The amount the official receiver must disregard under paragraph (1)(b) or (c) is limited to the value of a reasonable replacement where it appears to the official receiver that the realisable value of the whole or a part of the property to be disregarded exceeds the cost of a reasonable replacement for that property or that part.

(4) A vehicle or other property is a reasonable replacement if it is reasonably adequate for meeting the needs met by the other vehicle or other property.

CHAPTER 4

Making or refusal of 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.]

Contents of debt relief order

9.10. A debt relief order must contain—

- (a) the debtor's identification details;
- (b) the date of, and the reference number allocated to, the debtor's application;
- (c) a list of the debtor's qualifying debts as at the application date, specifying the amount owed and the creditor's name, address and reference (if any); and
- (d) the date on which the order was made.

Other steps to be taken by official receiver or debtor upon making of the order

9.11.—(1) In addition to delivering a copy of the order to the debtor under section 251E, the official receiver must—

- (a) deliver a notice of the making and date of the order to the approved intermediary through whom the debtor's application was made; and
- (b) cause an entry to be made in the individual insolvency register in accordance with rule 11.18.

(2) If there are other debt management arrangements or an attachment of earnings order in force in relation to the debtor, the official receiver must deliver a notice of the making of the debt relief order to the court, or the body, as the case may be, responsible for making the debt management arrangements or order.

Prescribed information for creditors on making of debt relief order

9.12. The official receiver must deliver a notice to each creditor to whom a qualifying debt specified in the order is owed, of—

- (a) the making, the date and the reference number of the order;
- (b) the effect of the order;
- (c) the matters to which a creditor may object under section 251K; and
- (d) the name, address and telephone number of the official receiver delivering the notice and the address to which any objection under that section may or must be delivered.

Refusal of application for debt relief order

9.13. If the official receiver refuses an application for a debt relief order, the official receiver must deliver a notice to the debtor stating that the official receiver refused the application, and the reason why it has been refused.

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⁽²⁰⁾;
 - (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,
 - (ii) the conditions specified in Part 1 of Schedule 4ZA⁽²¹⁾ 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;

⁽²⁰⁾ 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).

⁽²¹⁾ Paragraph 3 of Schedule 4ZA is substituted by paragraph 62 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

- (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.

- (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.

CHAPTER 6

Applications to the court

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

Notice of application to court under section 251M

9.21.—(1) This rule applies to applications to the court under section 251M.

(2) Where the application is made by a person who is dissatisfied by an act, omission or decision of the official receiver in connection with a debt relief order or an application for a debt relief order the applicant must deliver a notice—

- (a) if the applicant is the debtor, to the official receiver and any creditor specified in the debt relief order or in the application for the debt relief order; or
- (b) if the applicant is a person other than the debtor, to the official receiver and the debtor.

(3) Where the application is made by the official receiver for directions or an order in relation to a matter arising in connection with a debt relief order or an application for such an order, the official receiver must deliver notice to—

- (a) the debtor; and
- (b) any person appearing to the official receiver to have an interest in the application.

Court in which applications under sections 251M or 251N are to be made

9.22.—(1) An application to the court under section 251M or 251N must be made to—

- (a) the County Court at Central London, where the proceedings are allocated to the London Insolvency District under rule 12.5(a)(i) to (iv);

- (b) the High Court, where the proceedings are allocated to the London Insolvency District under rule 12.5(a)(v);
 - (c) the debtor’s own hearing centre as determined under paragraph (3) (subject to paragraph (4)), in any other case where the debtor is resident in England and Wales.
- (2) The application may be filed either with the debtor’s own hearing centre or with the High Court if—
- (a) the debtor is not resident in England and Wales but was resident or carried on business in England and Wales within the six months immediately before the application is filed with the court; and
 - (b) the proceedings are not allocated to the London Insolvency District.
- (3) In this rule the debtor’s own hearing centre is—
- (a) where the debtor has carried on business in England and Wales within the six months immediately before the application is filed with the court, the hearing centre which serves the insolvency district where for the longest period during those six months—
 - (i) the debtor carried on business, or
 - (ii) the principal place of business was located, if business was carried on in more than one insolvency district; or
 - (b) where the debtor has not carried on business in England and Wales within the six months immediately before the application is filed with the court, the hearing centre which serves the insolvency district where the debtor resided for the longest period during those six months.
- (4) Where, for whatever reason, it is not possible for the application to be filed with the debtor’s own hearing centre, the applicant may, with a view to expediting the application, file the application—
- (a) where paragraph (3)(a) applies, with—
 - (i) the hearing centre for the insolvency district in which the debtor resides, or
 - (ii) the hearing centre specified in Schedule 6 as the nearest full-time hearing centre to the hearing centre specified in paragraph (3)(a), or paragraph (i) as the case may be; or
 - (b) where paragraph (3)(b) applies, with the hearing centre specified in Schedule 6 as being the nearest full-time hearing centre to that specified in paragraph (3)(b).
- (5) The application must contain sufficient information to establish that it is brought in the appropriate court, and where the application is made to the County Court, the appropriate hearing centre.

Creditor’s bankruptcy petition: creditor consents to making application for a debt relief order

9.23.—(1) This rule applies where before the determination of an application for a debt relief order, a creditor’s petition for bankruptcy has been presented against a debtor and the proceedings in relation to the petition remain before the court.

(2) In this rule “the debt” means the debt to which the creditor’s bankruptcy petition relates.

(3) If, on the hearing of the petition, the petitioner consents to the debtor making an application for a debt relief order in relation to the debt the court must—

- (a) refer the debtor to an approved intermediary for the purpose of making an application for a debt relief order in relation to the debtor and the debt noting the consent of the creditor on the order for referral; and

- (b) stay the proceedings on the petition in relation to the debt on such terms and conditions as it thinks just.
- (4) The debtor must deliver to the approved intermediary as soon as reasonably practicable after the making of the order of referral—
 - (a) a sealed copy of the order; and
 - (b) copies of the petition and the creditor’s statutory demand (if there was one).
- (5) The approved intermediary must, on receipt of the order and the copies, as soon as reasonably practicable after the application for a debt relief order has been made, deliver them to the official receiver endorsed with the name of the debtor and the number of the application to which they relate.
- (6) If, following the reference by the court, a debt relief order is made in relation to the debt, the petition must be dismissed in relation to it unless the court otherwise directs.

Extension of moratorium period

- 9.24.** Where the moratorium period applicable to a debt relief order is extended—
- (a) notice of the extension, and the period of extension must be delivered—
 - (i) where extended by the court, to the official receiver, who must deliver a copy to the debtor and to the creditors specified in the debt relief order,
 - (ii) where extended by the official receiver, to the debtor and to the creditors specified in the debt relief order; and
 - (b) the official receiver must cause to be entered in the individual insolvency register—
 - (i) that such an extension has been made in relation to the debtor,
 - (ii) the date on which the extension was made,
 - (iii) its duration, and
 - (iv) the date of the anticipated end of the moratorium period.

CHAPTER 7

Permission to act as a director, etc.

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

Application for permission under the Company Directors Disqualification Act 1986

- 9.25.—**(1) This rule relates to an application for permission under section 11 of the Company Directors Disqualification Act 1986(**22**), to act as director of, or to take part or be concerned in the promotion, formation or management of a company by a person—
- (a) in relation to whom a moratorium period under a debt relief order applies; or
 - (b) in relation to whom a debt relief restrictions order or undertaking is in force.
- (2) The application must be supported by a witness statement which must contain identification details for the company and specify—
- (a) the nature of its business or intended business, and the place or places where that business is, or is to be, carried on;
 - (b) in the case of a company which has not yet been incorporated, whether it is, or is to be, a private or a public company;

(22) 1986 c.46; section 11 is amended by S.I. 2009/1941 and 2012/2404.

- (c) the persons who are, or are to be, principally responsible for the conduct of its affairs (whether as directors, shadow directors, managers or otherwise);
 - (d) the manner and capacity in which the applicant for permission proposes to take part or be concerned in the promotion or formation of the company or, as the case may be, its management; and
 - (e) the emoluments and other benefits to be obtained by virtue of the matters referred to in paragraph (d).
- (3) The court must fix a venue for the hearing of the application, and must deliver a notice to the applicant for permission accordingly.

Report of official receiver

9.26.—(1) The applicant for permission must, not less than 28 days before the date fixed for the hearing, deliver to the official receiver, notice of the venue, accompanied by copies of the application and the witness statement under rule 9.25.

(2) The official receiver may, not less than 14 days before the date fixed for the hearing, file with the court a report of any matters which the official receiver considers ought to be drawn to the court's attention.

(3) A copy of the report must be delivered by the official receiver, as soon as reasonably practicable after it is filed, to the applicant for permission.

(4) The applicant for permission may, not later than five business days before the date of the hearing, file with the court a notice specifying any statements in the official receiver's report which are to be denied or disputed.

(5) If a notice is filed under paragraph (4), the applicant for permission must deliver copies of it, not less than three business days before the date of the hearing, to the official receiver.

(6) The official receiver may appear on the hearing of the application, and may make representations and put to the applicant for permission such questions as the court may allow.

Court's order on application

9.27.—(1) If the court grants the application for permission under section 11 of the Company Directors Disqualification Act 1986, its order must specify that which by virtue of the order the applicant has permission to do.

(2) The court may at the same time, having regard to any representations made by the official receiver on the hearing of the application, exercise in relation to the moratorium period or the debt relief order to which the applicant for permission is subject, any power which it has under section 251M.

(3) Whether or not the application is granted, copies of the order must be delivered by the court to the applicant and the official receiver.