

SCHEDULES

SCHEDULE 20

Section 108(3)

DEBT RELIEF ORDERS: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO THE INSOLVENCY ACT 1986

- 1 The Insolvency Act 1986 (c. 45) is amended as follows.
- 2 (1) In section 31 (disqualification of bankrupt) in subsection (1)—
- (a) at the end of paragraph (a) (before “or”) insert—
- “(aa) a moratorium period under a debt relief order applies in relation to him,”;
- (b) in paragraph (b) after “order” insert “or a debt relief restrictions order”.
- (2) In the heading to that section after “**bankrupt**” insert “**or person in respect of whom a debt relief order is made**”.
- 3 After section 274 insert—
- “274A Debtor who meets conditions for a debt relief order**
- (1) This section applies where, on the hearing of a debtor’s petition—
- (a) it appears to the court that a debt relief order would be made in relation to the debtor if, instead of presenting the petition, he had made an application under Part 7A; and
- (b) the court does not appoint an insolvency practitioner under section 273.
- (2) If the court thinks it would be in the debtor’s interests to apply for a debt relief order instead of proceeding on the petition, the court may refer the debtor to an approved intermediary (within the meaning of Part 7A) for the purposes of making an application for a debt relief order.
- (3) Where a reference is made under subsection (2) the court shall stay proceedings on the petition on such terms and conditions as it thinks fit; but if following the reference a debt relief order is made in relation to the debtor the court shall dismiss the petition.”
- 4 In section 384(2) (meaning of prescribed amount)—
- (a) at the beginning of the list of provisions insert “section 251S(4),”;
- (b) in the list omit “and” after “section 361(2),” and
- (c) at the end of the list insert “paragraphs 6 to 8 of Schedule 4ZA.”
- 5 (1) Section 385(1) (definitions) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In the definition of “the debtor”, before paragraph (a) insert—
 “(za) in relation to a debt relief order or an application for such an order,
 has the same meaning as in Part 7A.”.
- (3) After the definition of “debtor’s petition” insert—
 ““debt relief order” means an order made by the official receiver under
 Part 7A;”.
- 6 (1) Section 390 (persons not qualified to act as insolvency practitioners) is amended as follows.
- (2) In subsection (4) after paragraph (a) insert—
 “(aa) a moratorium period under a debt relief order applies in relation of
 him,”.
- (3) In subsection (5) after “order” insert “or a debt relief restrictions order”.
- 7 (1) Section 399 (appointment etc of official receivers) is amended as follows.
- (2) In subsection (1) for “or individual voluntary arrangement” (in both places) substitute
 “, individual voluntary arrangement, debt relief order or application for such an
 order”.
- (3) In subsection (4) for “or individual voluntary arrangement” substitute “, individual
 voluntary arrangement, debt relief order or application for such an order”.
- 8 In section 412(1) (individual insolvency rules) for “Parts VIII to XI” substitute
 “Parts 7A to 11”.
- 9 (1) Section 415 (fees orders) is amended as follows.
- (2) In subsection (1) before paragraph (a) insert—
 “(za) the costs of persons acting as approved intermediaries under Part
 7A,”.
- (3) In that subsection in paragraph (a) for “Parts VIII to XI” substitute “Parts 7A to 11”.
- 10 In section 415A (fees orders: general), before subsection (1) insert—
 “(A1) The Secretary of State—
 (a) may by order require a person or body to pay a fee in connection
 with the grant or maintenance of a designation of that person or body
 as a competent authority under section 251U, and
 (b) may refuse to grant, or may withdraw, any such designation where
 a fee is not paid.”
- 11 In section 418(1) (monetary limits)—
 (a) at the beginning of the list of provisions insert—
 “section 251S(4) (maximum amount of credit which a person in respect
 of whom a debt relief order is made may obtain without disclosure of
 his status);”;
 (b) at the end of the list of provisions insert—
 “paragraphs 6 to 8 of Schedule 4ZA (maximum amount of a person’s
 debts, monthly surplus income and property for purposes of obtaining
 a debt relief order);”.

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

- 12 (1) Section 426A (disqualification from Parliament) is amended as follows.
- (2) In subsection (1) after “bankruptcy restrictions order” insert “or a debt relief restrictions order”.
- (3) In subsection (5) after “interim order” insert “, or a debt relief restrictions order or an interim debt relief restrictions order,”.
- (4) In subsection (6) after “bankruptcy restrictions undertaking” insert “or a debt relief restrictions undertaking”.
- 13 (1) Section 426B (devolution) is amended as follows.
- (2) In subsection (1) after “Wales,” insert “or makes a debt relief restrictions order or interim debt relief restrictions order in respect of such a member,”.
- (3) In subsection (2) after “bankruptcy restrictions undertaking” insert “or a debt relief restrictions undertaking”.
- 14 (1) Schedule 9 is amended as follows.
- (2) In paragraph 1 for “Parts VIII to XI” substitute “Parts 7A to 11”.
- (3) In paragraph 5 for “Parts VIII to XI” substitute “Parts 7A to 11”.
- (4) In paragraph 6 for “Parts VIII to XI” substitute “Parts 7A to 11”.
- (5) After paragraph 7 insert—

“Debt relief orders

- 7A Provision as to the manner in which the official receiver is to carry out his functions under Part 7A.
- 7B Provision as to the manner in which any requirement that may be imposed by the official receiver on a person under Part 7A is to take effect.
- 7C Provision modifying the application of Part 7A in relation to an individual who has died at a time when a moratorium period under a debt relief order applies in relation to him.

Debt relief restrictions orders and undertakings

- 7D Provision about debt relief restrictions orders, interim orders and undertakings, including provision about evidence.

Register of debt relief orders and debt relief restrictions orders etc

- 7E Provision about the register required to be maintained by section 251W and the information to be contained in it, including provision—
- (a) enabling the amalgamation of the register with another register;
- (b) enabling inspection of the register by the public.”

- 15 (1) The Table in Schedule 10 (punishment of offences) is amended as follows.

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

(2) In the entry relating to section 31, in the column describing the general nature of the offence, after “bankrupt” insert “or person in respect of whom a debt relief order is made”.

(3) Insert the following entries after the entry relating to section 235(5)—

“251O(1)	False representations or omissions in making an application for a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(2)(a)	Failing to comply with duty in connection with an application for a debt relief order.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(2)(b)	False representations or omissions in connection with duty in relation to an application for a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(4)(a)	Failing to comply with duty in connection with a debt relief order.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(4)(b)	False representations or omissions in connection with a duty in relation to a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251P(1)	Failing to deliver books, records and papers to official receiver, concealing or destroying them or making false entries in them by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251P(2)	Person in respect of whom debt relief order is made doing anything falling within	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.

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	paragraphs (c) to (e) of section 251P(1) during the period of 12 months ending with the application date or doing anything falling within paragraphs (b) to (e) of section 251P(1) after that date but before the effective date.		
251Q(1)	Fraudulent disposal of property by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.
251R(1)	Disposal of property that is not paid for by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251R(2)	Obtaining property in respect of which money is owed by a person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251S(1)	Person in respect of whom a debt relief order is made obtaining credit or engaging in business without disclosing his status or name.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.”

(4) In the application of those entries in relation to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (limit on magistrates' court powers to impose imprisonment), the references in the fourth column to “12 months” are to be read as references to “6 months”.

PART 2

AMENDMENTS TO OTHER LEGISLATION

- 16 (1) Section 11(1) of the Company Directors Disqualification Act 1986 (c. 46) (undischarged bankrupts) (as substituted in relation to England and Wales by the Enterprise Act 2002 (c. 40)) is amended as follows.

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

- (2) At the end of paragraph (a) (before “or”) insert—
 “(aa) a moratorium period under a debt relief order applies in relation to him,”.
- (3) In paragraph (b) after “bankruptcy restrictions order” insert “or a debt relief restrictions order”.
- 17 In section 183(2) of the Employment Rights Act 1996 (c. 18) (insolvency of an employer who is individual), in paragraph (a) before sub-paragraph (i) insert—
 “(ai) a moratorium period under a debt relief order applies in relation to him,”.