
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

[^{F1}PART 1A

Moratorium

[^{F1}CHAPTER 7

Offences: general

F1 Pt. 1A inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), ss. 4(1), 49(1) (with ss. 2(2), 5(2))

Offence of fraud etc during or in anticipation of moratorium

13G.—(1) An officer of a company commits an offence if, during a moratorium for the company or at any time within the period of 12 months ending with the day on which a moratorium for the company comes into force, the officer—

- (a) does any of the things mentioned in paragraph (2), or
 - (b) was privy to the doing by others of any of the things mentioned in paragraph (2)(c), (d) and (e).
- (2) Those things are—
- (a) concealing any part of the company's property to the value of £500 or more, or concealing any debt due to or from the company,
 - (b) fraudulently removing any part of the company's property to the value of £500 or more,
 - (c) concealing, destroying, mutilating or falsifying any document affecting or relating to the company's property or affairs,
 - (d) making any false entry in any document affecting or relating to the company's property or affairs,
 - (e) fraudulently parting with, altering or making any omission in any document affecting or relating to the company's property or affairs, or
 - (f) pawning, pledging or disposing of any property of the company which has been obtained on credit and has not been paid for (unless the pawning, pledging or disposal was in the ordinary way of the company's business).
- (3) It is a defence—
- (a) for a person charged with an offence under paragraph (1) in respect of any of the things mentioned in paragraph (2)(a) or (f) to prove that the person had no intent to defraud, and
 - (b) for a person charged with an offence under paragraph (1) in respect of any of the things mentioned in paragraph (2)(c) or (d) to prove that the person had no intent to conceal the state of affairs of the company or to defeat the law.

(4) Where a person pawns, pledges or disposes of any property of a company in circumstances which amount to an offence under paragraph (1), every person who takes in pawn or pledge, or otherwise receives, the property commits an offence if the person knows it to be pawned, pledged or disposed of in circumstances which—

- (a) amount to an offence under paragraph (1), or
 - (b) would, if a moratorium were obtained for the company within the period of 12 months beginning with the day on which the pawning, pledging or disposal took place, amount to an offence under paragraph (1).
- (5) In this Article, “officer” includes a shadow director.

Offence of false representation etc to obtain a moratorium

13GA.—(1) An officer of a company commits an offence if, for the purpose of obtaining a moratorium for the company or an extension of a moratorium for the company, the officer—

- (a) makes any false representation, or
 - (b) fraudulently does, or omits to do, anything.
- (2) Paragraph (1) applies even if no moratorium or extension is obtained.
- (3) In this Article, “officer” includes a shadow director.

Prosecution of delinquent officers of company

13GB.—(1) This Article applies where a moratorium has been obtained for a company.

(2) If it appears to the monitor that any past or present officer of the company has committed an offence in connection with the moratorium, the monitor must forthwith—

- (a) report the matter to the Department, and
- (b) provide the Department with such information and give it such access to and facilities for inspecting and taking copies of documents (being information or documents in the possession or under the control of the monitor and relating to the matter in question) as it requires.

(3) Where a matter is reported to the Department under paragraph (2), the Department may, for the purpose of investigating the matter and such other matters relating to the affairs of the company as appear to the Department to require investigation, exercise any of the powers which are exercisable by inspectors appointed under section 431 or 432 of the Companies Act 1985.

(4) For the purpose of such an investigation any obligation imposed on a person by any provision of the Companies Acts to produce documents or give information to, or otherwise to assist, inspectors so appointed is to be regarded as an obligation similarly to assist the Department in its investigation.

(5) Where a question is put to a person in exercise of the powers conferred by paragraph (3), the person’s answer may be used in evidence against them.

(6) However, in criminal proceedings in which the person is charged with an offence other than a false statement offence—

- (a) no evidence relating to the answer may be adduced, and
- (b) no question relating to it may be asked,

by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of the person.

(7) In paragraph (6) “false statement offence” means an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath).

(8) Where the Director of Public Prosecutions for Northern Ireland institutes criminal proceedings following any report under paragraph (2), the monitor, and every officer and agent of the company past and present (other than the defendant), must give the Director all assistance in connection with the prosecution which they are reasonably able to give.

(9) For this purpose “agent” includes any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(10) The High Court may, on the application of the Director of Public Prosecutions for Northern Ireland, direct a person who has failed to comply with paragraph (8) to comply with it.]

Changes to legislation:

The Insolvency (Northern Ireland) Order 1989, CHAPTER 7 is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s. 23 Sch. 5 Pt.1 Ch. 3 para. 40](#)
- Instrument amended (prosp) by [S.I. 1994/279 \(N.I.\) art. 26\(1\)Sch. 2 para. 15](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 9 Pt. 2 para. 66 revoked by [1996 c. 23 s. 107\(2\)Sch. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov.uk](#))
- art. 2B inserted by [2016 c. 2 \(N.I.\) s. 2\(1\)](#)
- art. 208ZA applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZA is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 208ZA-208ZB inserted by [2016 c. 2 \(N.I.\) s. 1\(1\)](#)
- art. 208ZB applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZB is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 345A-345B inserted by [2016 c. 2 \(N.I.\) s. 1\(2\)](#)