

Draft Regulations laid before Parliament under section 235(2) of the Banking Act 2009 as applied and modified by regulation 24A of, and paragraph 4 of Schedule 2ZA to, the Electronic Money Regulations 2011 and regulation 23A of, and paragraph 4 of Schedule 3A to, the Payment Services Regulations 2017, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No.

FINANCIAL SERVICES AND MARKETS

**The Payment and Electronic Money Institution
Insolvency (Amendment) Regulations 2023**

Made - - - - *******
Coming into force - - *******

The Treasury make these Regulations in exercise of the powers conferred by sections 233 and 234 of the Banking Act 2009(1), as applied and modified by regulation 24A of, and paragraphs 2 and 3 of Schedule 2ZA to, the Electronic Money Regulations 2011(2) (“EMR 2011”) and regulation 23A of, and paragraphs 2 and 3 of Schedule 3A to, the Payment Services Regulations 2017(3) (“PSR 2017”), and section 259(1) of that Act.

The Treasury have consulted in accordance with section 235(3) of the Banking Act 2009 as applied and modified by regulation 24A of, and paragraph 4 of Schedule 2ZA to, the EMR 2011 and regulation 23A of, and paragraph 4 of Schedule 3A to, the PSR 2017.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 235(2) of the Banking Act 2009 as applied and modified by regulation 24A of, and paragraph 4 of Schedule 2ZA to, the EMR 2011 and regulation 23A of, and paragraph 4 of Schedule 3A to, the PSR 2017.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023.

(2) These Regulations come into force on the twenty first day after the day on which they are made.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(1) 2009 c. 1.

(2) S.I. 2011/99. Regulation 24A and Schedule 2ZA were inserted by S.I. 2020/1275.

(3) S.I. 2017/752. Regulation 23A and Schedule 3A were inserted by S.I. 2020/1275.

Amendment of the Payment and Electronic Money Institution Insolvency Regulations 2021

2. The Payment and Electronic Money Institution Insolvency Regulations 2021⁽⁴⁾ are amended in accordance with regulations 3 to 21.

Extent

3. In regulation 3—

- (a) in paragraph (1), for “and Scotland” substitute “, Scotland and Northern Ireland”;
- (b) omit paragraph (2).

Application: Scottish partnerships

4. In regulation 5—

- (a) in the heading, omit “LLPs and”;
- (b) omit “limited liability partnerships or”.

Definitions

5.—(1) Regulation 6 is amended as follows.

(2) In the table of definitions—

- (a) after the definition of “CDDA 1986”, insert—

| | |
|----------------|---|
| “CDD(NI)O 2002 | Company Directors Disqualification (Northern Ireland) Order 2002 ⁽⁵⁾ |
|----------------|---|

- (b) after the definition of “IA 1986”, insert—

| | |
|--------------|---|
| “I(NI)O 1989 | Insolvency (Northern Ireland) Order 1989 ⁽⁶⁾ |
|--------------|---|

(3) The entries identified in the first column of the following Table are amended as specified in the second column—

| <i>Entry</i> | <i>Amendment</i> |
|--------------|--|
| Contributory | At the beginning, insert “(a) in England and Wales and Scotland,”; at the end insert— “, and (b) in Northern Ireland, has the same meaning as in the I(NI)O 1989 (see Article 13 of that Order) as applied and modified by these Regulations” |
| Court | After “England and Wales” insert “and in Northern Ireland” |
| Enactment | After paragraph (b), but before the “and” at the end of that paragraph, insert— |

⁽⁴⁾ S.I. 2021/716.

⁽⁵⁾ S.I. 2002/3150 (N.I. 4).

⁽⁶⁾ S.I. 1989/2405 (N.I. 19).

| <i>Entry</i> | <i>Amendment</i> |
|---|--|
| | “(ba) an enactment contained in, or in an instrument made under, Northern Ireland legislation,” |
| special administration insolvency rules | For the existing entry, substitute— “(a) in relation to special administrations in England and Wales, or Scotland, means rules made under section 411 of the IA 1986, (b) in relation to special administrations in Northern Ireland, means rules made under Article 359 of the I(NI)O 1989, in each case as applied and modified by these Regulations to give effect to these Regulations.” |
| Schedule B1 | for the existing entry, substitute— “(a) in relation to special administrations in England and Wales, or Scotland, means Schedule B1 to the IA 1986; (b) in relation to special administrations in Northern Ireland, means Schedule B1 to the I(NI)O 1989.” |
| Schedule B1 administration order | For “that Schedule” substitute “Schedule B1 to the IA 1986 and paragraph 11 of Schedule B1 to the I(NI)O 1989” |
| statement of proposals | After “Schedule B1” insert “to the IA 1986 or paragraph 50 of Schedule B1 to the I(NI)O 1989” |

Application for order

6. In regulation 8(1)—

- (a) at the beginning of sub-paragraph (d) insert “in England and Wales,”;
- (b) after that sub-paragraph insert—
 - “(da) in Northern Ireland, the chief clerk in the exercise of the power conferred by section 35(4A) of the Criminal Justice Act (Northern Ireland) 1945(7),
 - (db) in Northern Ireland, a clerk of petty sessions in exercise of the power conferred by Article 92A of the Magistrates’ Courts (Northern Ireland) Order 1981(8),”.

Grounds for applying

7.—(1) In regulation 9(5), after “IA 1986” insert “or, as the case may be, Article 104A of the I(NI)O 1989(9)”.

Powers of the court

8. In regulation 10(2)—

- (a) in the opening words, omit the words “that the institution” to “Scotland”;
- (b) in sub-paragraph (b), omit “if satisfied”.

(7) 1945 c. 15. Subsection (4A) was inserted by S.I. 1994/2795 (N.I. 15), and amended by S.I. 2005/1455 (N.I. 10).
(8) S.I. 1981/1675 (N.I. 26). Article 92A was inserted by S.I. 1994/2795 (N.I. 15), and amended by S.I. 2005/1455 (N.I. 10), and paragraph 3(4) of Schedule 2 to the Justice Act (Northern Ireland) (c. 21).
(9) Article 104A was inserted by S.I. 1990/1504 (N.I. 10), and amended by S.I. 2001/3649 and S.I. 2009/1941.

Notice to the FCA: other proceedings

9. In regulation 11(11), after “IA 1986” insert “or, as the case may be, Article 178 of the I(NI)O 1989”.

Objectives 1 and 3: PPTAs capital markets arrangements

10. In regulation 33(4), in the definition of “capital market arrangement”, after “IA 1986” insert “or, as the case may be, paragraph 1 of Schedule 1A to the I(NI)O 1989”.

Application of the IA 1986 in England, Wales and Scotland

11.—(1) At the end of the heading to regulation 37, insert “in England, Wales and Scotland”.

(2) In regulation 37—

(a) after paragraph (1), insert—

“(1A) This regulation applies to the special administration of, or in relation to, an institution which is incorporated in, or formed under the law of England and Wales or Scotland.

(1B) For the purposes of paragraph (1A), an institution whose registered office, or in the case of an institution with no registered office, whose principal place of business, is situated in one part of the United Kingdom is to be treated as incorporated in, or formed under, the law of that part.”;

(b) in the table following paragraph (2)—

(i) in the entry for paragraph 65 of Schedule B1 to the Insolvency Act 1986 (“Schedule B1”), for the words in column 3 there were substituted—

“To be read as if—

(a) in sub-paragraph (1)—

(i) the words from the beginning to “in full” were omitted;

(ii) for “any other creditor” there were substituted “any creditor”;

(b) sub-paragraph (3) were omitted in respect of England and Wales”;

(ii) in the entry for paragraph 66 of Schedule B1 to the Insolvency Act 1986 (“Schedule B1”), there were inserted “To be read as if the words from the beginning to “have been met,” were omitted;

(iii) in the entry for paragraph 111 of Schedule B1 to the Insolvency Act 1986, in the third column, in paragraph (b), for “(1A)(b) and (c)” substitute “(1A)”.

Application of the I(NI)O 1989

12. After regulation 37, insert—

“Application of the I(NI)O 1989 and related insolvency legislation in Northern Ireland

37A.—(1) The provisions of the IA 1986 and the I(NI)O 1989 mentioned in the first column of the Table apply to special administration as they apply to any other insolvency proceedings, with any modifications shown in the third column.

(2) References in the first column of the Table are to provisions in the I(NI)O 1989 unless otherwise stated.

(3) Articles 88 to 94 of the Judgments Enforcement (Northern Ireland) Order 1981(10) apply to special administration as they apply to any other insolvency proceedings as if in Article 88(2)(b)—

- (a) in paragraph (i), the words “or of the calling” to “to be proposed” were omitted;
- (b) in paragraph (ii), for the words “or of the calling of such a meeting” to the end, there were substituted “but a winding-up order is not at any time made as a result of that petition”.

(4) This regulation applies to the special administration of, or in relation to, an institution which is incorporated in, or formed under the law of Northern Ireland.

(5) For the purposes of paragraph (4), an institution whose registered office, or in the case of an institution with no registered office, whose principal place of business, is situated in Northern Ireland is to be treated as incorporated in, or formed under, the law of Northern Ireland.

(6) This regulation is subject to—

- (a) Schedule 1A (which makes provision about how special administration applies to limited liability partnerships), and
- (b) Schedule 2A (which makes provision about how special administration applies to partnerships).

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|--|----------------|--|
| <i>Articles</i> | | |
| Generally (for the provisions of this part of the table mentioned below) | | To be read as if— <ul style="list-style-type: none">(a) references to a provision of the I(NI)O 1989 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations,(b) references to the liquidator were to the administrator,(c) references to winding up were to special administration,(d) references to winding up by the court were to the imposition of special administration by order of the court,(e) references to being wound up under Part 5 or 6 of the I(NI)O 1989 were to being in special administration,(f) references to the commencement of winding up were to the commencement of special administration,(g) references to going into liquidation were to entering special administration, |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|----------------------------|--|--|
| <i>Articles</i> | | |
| | | (h) references to liquidation or to insolvent liquidation were to special administration, |
| | | (i) references to a winding-up order were to a special administration order, and |
| | | (j) references to a company were to an institution. |
| | | Those general modifications are subject to any specific modifications below. |
| Article 13 | Definition of contributory | |
| Articles 61 and 63 to 69 | Contributories | |
| Article 142 and Schedule 2 | Powers of the liquidator | To be read as if— (a) in paragraphs (1) and (2) the references to a liquidation committee were to a creditors' committee; (b) a user or holder may also apply to the court under paragraph (3); (c) in Schedule 2, paragraphs 4 to 7, 8 to 11 and 13 were omitted and in paragraph 14 the reference to winding up the company's affairs and distributing its assets were to pursuing the special administration objectives. |
| Article 143(4) | Discretion in managing and distributing assets | |
| Article 150 | Preferential charges on goods distrained | |
| Article 150A(11) | Unsecured creditors | |
| Article 152 | Disclaimer of onerous property | |
| Article 153 | Disclaimer of leaseholds | |
| Article 154 | Land subject to rent charge | |

(11) Article 150A was inserted by S.I. 2005/1455 (N.I. 10) and amended by S.I. 2008/948.

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------|--|---|
| <i>Articles</i> | | |
| Article 155 | Disclaimer: powers of High Court (General) | |
| Article 156 | Powers of High Court (leaseholds) | |
| Article 157 | Rescission of contracts by the court | |
| Article 158 | Power to make over assets to employees | |
| Article 163 | Resolutions passed at adjourned meetings | |
| Article 170 | Fraud in anticipation of winding up | To be read as if in paragraph (1), there were no reference to passing a resolution for voluntary winding up. |
| Article 171 | Transactions in fraud of creditors | To be read as if in paragraph (1), there were no reference to passing a resolution for voluntary winding up. |
| Article 172 | Misconduct in the course of winding up | To be read as if in paragraph (1), “whether by the High Court or voluntarily”, were omitted. |
| Article 173 | Falsification of company’s books | |
| Article 174 | Material omissions from statement | To be read is if— (a) in paragraph (1) “whether by the High Court or voluntarily”, were omitted; (b) in paragraph (2), “or has passed a resolution for voluntary winding up”, were omitted. |
| Article 175 | False representation to creditors | To be read is if in paragraph (1)— (a) “whether by the High Court or voluntarily”, were omitted; (b) the reference to the company’s creditors included users or holders. |
| Article 176 | Summary remedy | |
| Article 177 | Fraudulent trading | |
| Article 178 | Wrongful trading | To be read as if paragraph (6) were omitted. |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------|---|---|
| <i>Articles</i> | | |
| Article 179 | Proceedings under Articles 177 or 178 | |
| Article 180 | Restriction on re-use of company names | To be read as if— (a) references to the liquidating company were to a company in special administration; (b) paragraphs (7) and (8)(12) were omitted. |
| Article 181 | Personal liability for debts following contravention of Article 180 | To be read as if paragraph (6)(13) were omitted. |
| Article 182 (14) | Prosecution of delinquent officers and members of company | To be read as if— (a) in paragraph (2), the first reference to the official receiver were omitted and the second reference were to the Secretary of State; (b) in paragraph (4), the reference to paragraph (3) were to paragraph (2); (c) paragraphs (3), (5) and (6) were omitted. |
| Article 183 | Obligations arising under Article 182 | To be read as if in paragraph (1), the reference to Article 182(3) were to Article 182(2)(15). |
| Article 197 | Utilities | |
| Article 197A(16) | Further protection of essential supplies | |
| Article 198 | Getting in the company's property | To be read as if— (a) for paragraph (1) there were substituted— “(1) This Article applies where a company enters special administration.”; (b) the references to the office-holder were references to the administrator. |
| Article 199 | Co-operation with the administrator | To be read as if— (a) paragraphs (1) and (4)(b) to (d) were omitted; |

(12) Paragraph (8) was substituted by S.I. 2009/1941.

(13) Paragraph (6) was substituted by S.I. 2009/1941.

(14) Article 182 was amended by S.I. 2009/1941, and S.I. 2002/3152 (N.I. 6).

(15) Paragraph (1) was amended by S.I. 2002/3152 (N.I. 6).

(16) Article 197A was inserted by the Corporate Insolvency and Governance Act 2020 (c. 12).

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------|-------------------------------------|---|
| <i>Articles</i> | | |
| | | (b) the references to the office-holder were references to the administrator. |
| Article 200 | Inquiry into company's dealings | To be read as if— (a) for paragraph (1) there were substituted— “(1) This Article applies where a company enters special administration.”; (b) the references to the office-holder were references to the administrator. |
| Article 201 | Enforcement by the High Court | To be read as if the references to the office-holder were references to the administrator. |
| Article 202 | Transactions at an undervalue | To be read as if— (a) for paragraph (1) there were substituted— “(1) This Article applies where a company enters special administration.”; (b) the references to the office-holder were references to the administrator. |
| Article 203 | Preferences | To be read as if the references to the office-holder were references to the administrator. |
| Article 204(17) | Articles 202 and 203: relevant time | To be read as if— (a) in sub-paragraph (2)(a), the reference to being unable to pay debts were to be read in accordance with section 93(4) of the BA 2009 (as applied and modified by the EMR 2011 and the PSR 2017); (b) sub-paragraphs (1)(d) and (3)(a) to (d) were omitted. |
| Article 205(18) | Orders under Articles 202 and 203 | To be read as if paragraphs (3A) and (3B) were omitted. |
| Article 206 | Extortionate credit transactions | |
| Article 207(19) | Avoidance of floating charges | To be read as if— (a) in paragraph (3)(c), the references to an administration application and administration order were references to an application for special |

(17) Article 204 was amended by [S.I. 2005/1455 \(N.I. 10\)](#).

(18) Paragraphs (3A) and (3B) were substituted by [S.I. 2005/1455 \(N.I. 10\)](#).

(19) Paragraphs (3) and (5) were amended by [S.I. 2005/1455 \(N.I. 10\)](#).

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|---|---|--|
| <i>Articles</i> | | |
| | | administration and special administration order respectively; |
| | | (b) in sub-paragraphs (4)(a) and (b), the reference to being unable to pay its debts were to be read in accordance with section 93(4) of the BA 2009 (as applied and modified by the EMR 2011 and the PSR 2017); |
| | | (c) subparagraphs (3)(d) and (5)(a) to (c) were omitted. |
| Article 208 | Unenforceability of liens | To be read as if— (a) for paragraph (1) there were substituted— “(1) This Article applies where a company enters special administration.”; (b) the reference to the office-holder were references to the administrator. |
| Article 208ZA(20) | Remote attendance at meetings | To be read as if references to creditors included users or holders. |
| Article 208ZB | Use of websites | |
| Article 346 and Schedule 4 to the I(NI)O 1989 (and Schedule 3 to the Pension Schemes (Northern Ireland) Act 1993) | Preferential debts | |
| Article 347, paragraphs (1) and (3A)(21) | “The relevant date” | To be read as if the reference to administration were to special administration. |
| Article 348 | Offence of acting without being qualified | To be read as if— (a) the reference to acting as an insolvency practitioner were to acting as the administrator (b) paragraph (2) were omitted. |

(20) Articles 208ZA and 208ZB are inserted by section 1(1) of the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2).

(21) Paragraph (3A) was inserted by S.R. 2006/22.

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|--------------------------|--|---|
| <i>Articles</i> | | |
| Articles 349 to 350T(22) | Authorisation and regulation of insolvency practitioners | <p>To be read as if—</p> <p>(a) in Article 349, references to acting as an insolvency practitioner were to acting as the administrator;</p> <p>(b) in paragraph (2)(23) of that Article, after “authorised” there were inserted “to act as an insolvency practitioner”;</p> <p>(c) in Articles 349A, 349B(1) and (2), 350O(1) (b) and 350R(3)(b) references to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies, the reference to companies had effect as a reference to companies without modification by this Table;</p> <p>(d) an order under Article 350 had effect in relation to any provision applied for the purposes of special administration;</p> <p>(e) in Articles 350Q(2)(b) and 350S(3)(e) the references to a company had effect as references to a company without modification by this Table.</p> |
| Article 359(24) | Insolvency rules | To be read as if, in paragraphs (1C), (2C) and (3), the references to Part 2 of the BA 2009 were a reference to these Regulations. |
| Article 361 | Fees orders | <p>To be read as if—</p> <p>(a) the references to “this Order” includes these Regulations;</p> <p>(b) paragraph (1)(za) and paragraph (2)(b) were omitted;</p> <p>(c) there were no reference to the official receiver;</p> <p>(d) proceedings which would be under the I(NI)O 1989 were under the Payment and Electronic Money Institution Insolvency Regulations 2021.</p> |

(22) Article 349 was amended and Articles 349A to 349B and 350 to 350T were inserted by sections 14 to 16(1), 17(1), and 18 to 20 of the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2).

(23) Paragraph (2) was substituted by section 14 of the Insolvency (Amendment) Act (Northern Ireland) 2016.

(24) Paragraphs (1C) and (2C) were inserted by section 125 of the Banking Act 2009 (c. 1).

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|--|------------------------------------|--|
| <i>Articles</i> | | |
| Article 367 | Transactions defrauding creditors | |
| Articles 368 and 369 | Transactions defrauding creditors | |
| Article 373 and Schedule 7 | Offences by bodies corporate | To be read as if, in Article 373(4), there were no provisions of the I(NI)O 1989 listed there except for Articles 170(1), (2) and (5), 171(1), 172(1), 173, 174(1) and 175(1). |
| Article 374 | Summary proceedings | |
| Article 375 | Statements: admissibility | |
| Article 376 | Judicial notice of court documents | |
| Articles 384 to 386 | Supplementary provisions | |
| <i>Schedule B1 to the I(NI)O 1989(25)</i> | | |
| Generally (for the provisions of this part of the table mentioned below) | | <p>To be read as if—</p> <p>(a) references to a provision of the I(NI)O 1989 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations,</p> <p>(b) references to the administrator were to the administrator appointed under regulation 7,</p> <p>(c) references to administration were to special administration,</p> <p>(d) references to an administration order were to a special administration order,</p> <p>(e) references to a company were to an institution, and</p> <p>(f) references to the purpose of administration were to the special administration objectives.</p> <p>Those general modifications are subject to any specific modifications below.</p> |

(25) Schedule B1 was inserted by Schedule 1 to the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)).

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------------------|---|---|
| <i>Articles</i> | | |
| Paragraph 1 | Interpretation | To be read as if the definition of “administrator” and sub-paragraph (1A) and sub-paragraph (1B) were omitted. |
| Paragraph 41(1)(a) | Dismissal of pending winding up petition | |
| Paragraph 43 | Moratorium on insolvency proceedings | To be read as if sub-paragraphs (4)(a) and (4)(b) were omitted. |
| Paragraph 44 | Moratorium on other legal processes | |
| Paragraph 45(1), (5) and (7) | Interim moratorium | To be read as if— (a) subparagraph (7) also included a reference to paragraph 45 not preventing or requiring the permission of the court for an application by the FCA for a special administration order; (b) sub-paragraph (7)(b) to (d) were omitted. |
| Paragraph 46 | Publicity | |
| Paragraph 47 | Announcement of administrator’s appointment | To be read as if— (a) in sub-paragraph (3)(a), in addition to obtaining the list of creditors, the administrator were also required to obtain as complete a list as possible of the users or holders of the institution; (b) in sub-paragraph (3)(b), the administrator were also required to send a notice of their appointment to each user or holder of whose claim and address the administrator is aware; (c) where the special administration application has not been made by the FCA, notice of the administrator’s appointment were also required to be sent under sub-paragraph (5) to the FCA; (d) sub-paragraphs (6)(b) and (c) were omitted. |
| Paragraph 48 | Statement of company’s affairs | To be read as if, in sub-paragraph (2), there were also a reference to including particulars of the relevant funds held by the institution. |
| Paragraph 49 | Statement of company’s affairs | |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------|---|---|
| <i>Articles</i> | | |
| Paragraph 50 | Administrator's proposals | <p>To be read as if—</p> <p>(a) sub-paragraph (2)(b) were omitted;</p> <p>(b) in sub-paragraph (4), the administrator were also required to send a copy of the statement of proposals to every user or holder of whose claim the administrator is aware and who the administrator has a means of contacting, and to the FCA;</p> <p>(c) the administrator were also required to give notice that the statement of proposals is to be provided free of charge to a payment system operator who applies in writing to a specified address.</p> <p>The application of paragraph 50(1) to (3) is subject to regulation 38(6).</p> |
| Paragraph 51 | Creditors' meeting | <p>To be read as if—</p> <p>(a) in sub-paragraph (1), the administrator were also required to summon the users or holders referred to in paragraph 50(4) to the meeting of creditors and to give such users or holders notice under sub-paragraph (1)(b);</p> <p>(b) the FCA were empowered to appoint a person to attend a meeting of creditors and make representations as to any matter for decision.</p> |
| Paragraph 52 | Requirement for initial creditors' meeting | <p>To be read as if—</p> <p>(a) there were a requirement that each copy of an administrator's proposals sent to a user or holder or the FCA under paragraph 50 be accompanied by an invitation to the initial creditor's meeting;</p> <p>(b) the application of paragraph 52 is subject to regulation 38(6).</p> |
| Paragraph 54 | Business and result of initial creditors' meeting | <p>To be read as if—</p> <p>(a) there were a requirement that special administration insolvency rules prescribe how users or holders are to vote at meetings of creditors;</p> <p>(b) in sub-paragraph (2), if the FCA has not appointed a person to attend the meeting, the</p> |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------|---|--|
| <i>Articles</i> | | |
| | | <p>administrator were also required to report any decision taken to the FCA.</p> <p>The application of paragraph 54 is subject to regulation 38(6).</p> |
| Paragraph 55 | Revision of administrator’s proposals | <p>To be read as if—</p> <p>(a) if the revision proposed by the administrator affects both creditors and users or holders, every reference to creditors included users or holders;</p> <p>(b) if the administrator thinks that the revision proposed only affects either creditors or users or holders, it only applied to the affected party and required the party not affected to be informed of the revision;</p> <p>(c) the FCA were required to be invited to the creditors’ meeting mentioned in sub-paragraph (2)(a);</p> <p>(d) the statement of the proposed revision mentioned in sub-paragraph (2)(b) were also required to be sent to the FCA.</p> <p>The application of paragraph 55 is subject to regulation 38(6).</p> |
| Paragraph 56 | Failure to obtain approval of administrator’s proposals | <p>To be read as if—</p> <p>(a) in making an order under sub-paragraph (2) the court were required to have regard to the special administration objectives;</p> <p>(b) sub-paragraph (2)(d) were omitted.</p> <p>The application of paragraph 56 is subject to regulation 38(6).</p> |
| Paragraph 57 | Further creditors’ meetings | To be read as if the administrator were required to invite the FCA to any meeting summoned. |
| Paragraph 58 | Creditors’ committee | <p>To be read as if—</p> <p>(a) a creditors’ committee were only able to be established by a creditors’ meeting to which creditors and users or holders have both been given notice;</p> |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------|--|--|
| <i>Articles</i> | | |
| | | (b) the FCA were empowered to appoint a person to attend a meeting of the creditors' committee and make representations as to any matter for decision; |
| | | (c) there were a requirement that special administration insolvency rules prescribe that, where a meeting of creditors resolves to establish a creditors' committee, the makeup of the creditors' committee is a reflection of all parties with an interest in the achievement of the special administration objectives. |
| Paragraph 59 | Correspondence instead of creditor's meeting | |
| Paragraph 60 | Functions of an administrator | To be read as if— (a) in sub-paragraph (1), the administrator's power were to do anything necessary or expedient in pursuit of Objectives 1 to 3; (b) in sub-paragraph (2), the reference to a provision of the Schedule expressly permitting the administrator to do a specified thing included a provision of these Regulations expressly permitting the administrator to do a specified thing; (c) at the end there were inserted— “(4) The administrator is an officer of the court.”. |
| Paragraph 61 | General powers (and Schedule 1) | |
| Paragraph 62 | Directors | |
| Paragraph 63 | Power to call meetings | To be read as if the administrator were also empowered to call a meeting of users or holders or contributories. |
| Paragraph 64 | Application to court for directions | |
| Paragraph 65 | Management powers | |
| Paragraph 66 | Distribution to creditors | To be read as if— (a) in paragraph (1)— |

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| | | (i) the words from the beginning to “in full,” were omitted; |
| | | (ii) for “any other creditor” there were substituted “any creditor”; |
| | | (b) sub-paragraph (3) were omitted. |
| Paragraph 67 | Payments | To be read as if the words from the beginning to “have been met,” were omitted. |
| Paragraph 68 | Property | |
| Paragraph 69 | Management | To be read as if references to proposals approved under paragraphs 54 or 55 included, without need for approval— |
| | | (a) proposals agreed with the FCA under regulations 39 or 40; or |
| | | (b) proposals in respect of which the court has made an order dispensing with the need for agreement in accordance with those regulations. |
| Paragraph 70 | Agency | |
| Paragraph 71 | Floating charge | |
| Paragraph 72 | Non-floating charge | |
| Paragraph 73 | Hire purchase property | |
| Paragraph 74 | Protection for secured preferential creditors | to be read as if sub-paragraph (2)(d) were omitted. |
| Paragraph 75 | Challenge administrator’s conduct | to be read as if— |
| | | (a) the FCA were also empowered to make an application to the court, on the grounds that— |
| | | (i) the administrator is acting or has acted so as unfairly to harm the interests of some or all of the members, creditors or users or holders; |
| | | (ii) the administrator is proposing to act in a way which would unfairly harm the interests of some or all of the members, creditors or users or holders; |
| | | (iii) the administrator has failed to carry out a reconciliation in accordance with regulation 13; |

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| <i>Articles</i> | | <p>(b) a user or holder were also empowered to make an application to the court under sub-paragraph (1) or (2);</p> <p>(c) any of the following persons were also empowered to make an application on the grounds that the administrator is not taking any action in response to a request from that person under regulation 35(3) and that the person is of the opinion that the action requested would not lead to a material reduction in the value of the property of the institution—</p> <p>(i) the Bank of England;</p> <p>(ii) the Treasury;</p> <p>(iii) the FCA;</p> <p>(iv) the Payment Systems Regulator;</p> <p>(d) the following persons were also empowered to make an application on the grounds that the administrator has made, or proposes to make, a PPTA in contravention of regulation 32 or 34—</p> <p>(i) the Bank of England;</p> <p>(ii) the FCA;</p> <p>(e) any person, other than the institution, who is party to an arrangement of a kind referred to in regulation 31(1) were also empowered to make an application on the grounds that the administrator has made, or proposes to make, a relevant transfer in contravention of that regulation;</p> <p>(f) where an application is made on the grounds that the administrator has made a relevant transfer in contravention of regulation 34—</p> <p>(i) sub-paragraphs (3)(a), (d) and (e) and (4) were omitted;</p> <p>(ii) the court were also empowered to make an order declaring that the transfer was made in contravention of the regulation concerned;</p> |

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| | | (g) where an application is made on the grounds that the administrator has made a relevant transfer in contravention of regulation 32 or 33, the court were also empowered to make such order as it thinks fit for restoring the position to what it would have been if the transfer had not been made in contravention of the regulation concerned; |
| | | (h) where the FCA has given a direction under regulation 38 which has not been withdrawn, the court did not have power to make an order if it would impede or prevent compliance with the direction. |
| Paragraph 76 | Misfeasance | To be read as if a user or holder and the FCA were included in the list of persons who may make an application under sub-paragraph (2). |
| Paragraph 80 | Court ending administration on application of administrator | To be read as if sub-paragraph (2) were omitted. |
| Paragraph 82 | Court ending administration on application of a creditor | To be read as if it did not apply where the administrator was appointed by the court on the application of the FCA or the Secretary of State. |
| Paragraph 85 | Termination: no more relevant funds for distribution | To be read as if— (a) the administrator were only empowered to send a notice under sub-paragraph (1) if the institution no longer holds relevant funds; (b) in sub-paragraph (5)(b), a copy of the notice were also required to be sent to every user or holder of the institution of whom the administrator is aware and the FCA. |
| Paragraph 86 | Discharge of administration order | |
| Paragraph 87 | Notice to Companies Registrar at the end of administration | |
| Paragraph 88 | Resignation | To be read as if— (a) where the administrator was appointed by the court on the application of the FCA or the Secretary of State, the notice of the resignation |

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| <i>Articles</i> | | |
| | | given in accordance with sub-paragraph (2)(a) were also required to be given to the applicant; |
| | | (b) sub-paragraph (2)(b) to (d) were omitted. |
| Paragraph 89 | Removal | |
| Paragraph 90 | Disqualification | To be read as if— |
| | | (a) where the administrator was appointed by the court on the application of the FCA or the Secretary of State, the notice given in accordance with sub-paragraph (2)(a) were also required to be given to the applicant; |
| | | (b) sub-paragraphs (2)(b) to (d) were omitted. |
| Paragraph 91 | Replacement | To be read as if the reference to paragraphs 92 to 96 were to paragraph 92 only. |
| Paragraph 92 | Replacement | To be read as if the FCA were included in the list of persons who may make an application to appoint an administrator in reliance on sub-paragraph (1) but to whom the restrictions in sub-paragraph (2) apply. |
| Paragraph 99 | Discharge | To be read as if sub-paragraphs (2)(b) and (3) were omitted. |
| Paragraph 100 | Vacation of office: charges and liabilities | To be read as if— |
| | | (a) in sub-paragraph (3), the former administrator's remuneration and expenses incurred in respect of the pursuit of Objective 1 are to be charged on and payable out of relevant funds; |
| | | (b) in sub-paragraph (4)(b), the reference to any charge arising under sub-paragraph (3) did not include a charge on relevant funds. |
| Paragraph 101 | Joint and concurrent administrators | |
| Paragraph 102 | Joint and concurrent administrators | To be read as if in sub-paragraph (3), the reference to paragraphs 88 to 100 were to paragraphs 88 to 92 and 99 to 100. |
| Paragraph 103 | Joint and concurrent administrators | |
| Paragraph 104 | Joint and concurrent administrators | To be read as if— |
| | | (a) in sub-paragraph (2), the reference to paragraph 13(1)(a) to (f) were to regulation 8(1); |

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| <i>Articles</i> | | |
| | | (b) sub-paragraphs (3) to (5) were omitted. |
| Paragraph 105 | Presumption of validity | |
| Paragraph 106 | Majority decision of directors | |
| Paragraph 107 (and Article 373 and Schedule 7) | Fines | To be read as if sub-paragraph (2)(a), (b) and (l) to (n) was omitted. |
| Paragraph 108 | Extension of time limit | To be read as if, in considering an application under paragraph 108, the court were required to have regard to the special administration objectives. |
| Paragraph 109 | Extension of time limit | To be read as if— (a) the administrator were also required to obtain consent of those users or holders whose claims amount to more than 50% of the total amount of claims for relevant funds, disregarding the claims of those users or holders who were sent a copy of the statement of proposals but who did not respond to an invitation to give or withhold consent; (b) sub-paragraph (3) were omitted. |
| Paragraph 110 | Extension of time limit | |
| <i>Sections of the IA 1986</i> | | |
| Section 197 of the IA 1986 | Commission for receiving evidence | |
| Section 426 of the IA 1986 | Co-operation between courts | To be read as if references to insolvency law included provisions made by or under these Regulations.”. |

FCA direction

13. For regulation 38(6) substitute—

“(6) Where the FCA has given a direction under this regulation and the direction has not been withdrawn, the following provisions do not apply—

- (a) in England and Wales and Scotland, paragraphs 49(1) to (3), 51, 53, 54 and 55 of Schedule B1 to the IA 1986;
- (b) in Northern Ireland, paragraphs 50(1) to (3), 52, 54, 55 and 56 of Schedule B1 to the I(NI)O 1989.”.

Administrator’s proposals in the event of FCA direction

14. In regulation 39—

- (a) in paragraph (2)(a), after “Part 1 of the IA 1986” insert “or, as the case may be, Part 2 of the I(NI)O 1989”;
- (b) in paragraph (4), for “paragraph 63 of Schedule B1 as applied and modified by these Regulations” substitute “paragraph 63 of Schedule B1 to the IA 1986 or, as the case may be, paragraph 64 of Schedule B1 to the I(NI)O 1989”;
- (c) in paragraph (8), for “paragraph 49(4) to (8) of Schedule B1 as applied and modified by these Regulations” substitute “paragraph 49(4) to (8) of Schedule B1 to the IA 1986 or, as the case may be, paragraph 50(4) to (8) of Schedule B1 to the I(NI)O 1989”;
- (d) for paragraph (9) substitute—

“(9) Paragraph (10) applies where, before the FCA gives its direction under regulation 38, a meeting of creditors has approved the statement of proposals in accordance with paragraph 53 of Schedule B1 to the IA 1986 or paragraph 54 of Schedule B1 to the I(NI)O 1989.

(10) The statement of proposals must be ignored for the purposes of regulation 38, this regulation and paragraph 68 of Schedule B1 to the IA 1986 or (as the case may be) paragraph 69 of Schedule B1 to the I(NI)O 1989.”;

- (e) after paragraph (10) insert—

“(11) References in this regulation to a numbered paragraph of Schedule B1 to the IA 1986 or to the I(NI)O 1989 are to that paragraph as applied and modified by these Regulations.”.

FCA direction withdrawn

15. In regulation 41(2), after “paragraphs 54 and 55 of Schedule B1” insert “to the IA 1986 or, as the case may be, paragraphs 55 and 56 of Schedule B1 to the I(NI)O 1989,”.

Safeguarding failures: costs of the administration

16. In regulation 42(1)(a), after “paragraph 57 of Schedule B1” insert “to the IA 1986 or, as the case may be, paragraph 58 of Schedule B1 to the I(NI)O 1989,”.

Successful rescue

17. In regulation 43(2), after “paragraph 79 of Schedule B1” insert “to the IA 1986 or, as the case may be, paragraph 80 of Schedule B1 to the I(NI)O 1989,”.

Dissolution or voluntary arrangement

18.—(1) Regulation 44 is amended as follows.

(2) In paragraph (1), for “section” substitute “regulation”.

(3) In paragraph (2)—

- (a) in sub-paragraph (a), after “paragraph 84 of Schedule B1” insert “to the IA 1986 or, as the case may be, paragraph 85 of Schedule B1 to the I(NI)O 1989”;
- (b) in sub-paragraph (b), after “Part 1 of the IA 1986” insert “or, as the case may be, Part 2 of the I(NI)O 1989”.

(4) For paragraph (3) substitute—

- “(3) The following provisions apply to a proposal made by an administrator—
- (a) Part 1 of the IA 1986, with the modifications set out in paragraphs (4) to (6), (7) and (8), or
 - (b) Part 2 of the I(NI)O 1989, with the modifications set out in paragraphs (6A) to (8).”.
- (5) In paragraph (4), for “(and not (1))” substitute “(and not subsection (1))”.
- (6) After paragraph (6) insert—
- “(6A) Article 16 (summoning of meetings) is to be read as if paragraph (2) (and not paragraph (1)) applies.
 - “(6B) Article 18(3) (effect of approval) is to be read as if the action which may be taken by the court includes suspension of the special administration order.”.
- (7) In paragraph (8), after “Part 1 of the IA 1986” insert “and Part 2 of the I(NI)O 1989”.

Disqualification of directors

- 19.**—(1) Regulation 46 is amended as follows.
- (a) in the heading, at the end insert “: Great Britain”;
 - (b) for paragraph (1), substitute—

“(1) Where a special administration order is made under these Regulations in relation to an institution that is incorporated in, or formed under the law of, England and Wales or Scotland, the CDDA 1986 applies with the following modifications.

 - (1A) For the purposes of paragraph (1), an institution whose registered office, or in the case of an institution with no registered office, whose principal place of business, is situated in England and Wales or Scotland is to be treated as incorporated in, or formed under, the law of England and Wales or Scotland, as the case may be.”;
 - (c) in paragraph (3), for “paragraph” substitute “subsection”.
- (2) After regulation 46 insert—

“Disqualification of directors: Northern Ireland

- 46A.**—(1) Where a special administration order is made under these Regulations in relation to an institution that is incorporated in, or formed under the law of, Northern Ireland, the CDD(NI)O 2002 applies with the following modifications.
- (2) For the purposes of paragraph (1), an institution whose registered office, or in the case of an institution with no registered office, whose principal place of business, is situated in Northern Ireland is to be treated as incorporated in, or formed under, the law of Northern Ireland.
- (3) The CDD(NI)O 2002 is to be read as if—
- (a) references to a provision of the I(NI)O 1989 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations;
 - (b) references to liquidation include special administration;
 - (c) references to the winding up of a company include an institution being subject to a special administration order;
 - (d) references to becoming insolvent include becoming subject to a special administration order;
 - (e) references to a liquidator include an administrator.

- (3) Article 9 is to be read as if paragraph (2) were omitted.
- (4) Article 10A is to be read as if—
 - (a) the reference to the office-holder were to the administrator;
 - (b) the reference to the insolvency date were to the date on which the special administration order is made;
 - (c) paragraphs (9) to (11) were omitted.
- (5) This regulation is subject to paragraphs 3 and 7 of Schedule 2A.”.

Further provision on special administration: Schedules 1 and 2

20.—(1) In regulation 47—

- (a) in paragraph (1), after “and Wales” insert “or the law of Scotland”;
- (b) after paragraph (1) insert—
 - “(1A) Schedule 1A makes further provision about how special administration applies to limited liability partnerships formed under the law of Northern Ireland.”;
- (c) after paragraph (2), insert—
 - “(2A) Schedule 2A makes further provision about how special administration applies to partnerships formed under the law of Northern Ireland.”.

(2) In Schedule 1—

- (a) in the heading, after “English/Welsh” insert “/Scottish”;
- (b) in paragraph 1, after Wales, insert “or Scotland”;
- (c) for paragraph 2, substitute—
 - “2. In this Schedule—
 - (a) the “LLPR 2001” means the Limited Liability Partnerships Regulations 2001⁽²⁶⁾;
 - (b) the “LLP(S)R 2001” means the Limited Liability Partnerships (Scotland) Regulations 2001⁽²⁷⁾.”;
- (d) in the Table following paragraph 3—
 - (i) in the first line, after “LLPR 2001” insert “in relation to limited liability partnerships established under the law of England and Wales”;
 - (ii) after the first line, insert—

| | |
|--|--|
| “Those mentioned in regulation 4(2) of the LLP(S)R 2001, in relation to limited liability partnerships established under the law of Scotland | Those set out in regulation 4(2) of the LLP (Scotland) Regulations (except regulation 4(2)(e) of those Regulations).”. |
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- (3) After Schedule 1, insert Schedule 1A, as set out in Schedule 1 to these Regulations.
- (4) In Table 2 after paragraph 6 of Schedule 2, in column 3 of the entry for paragraph 84 (version in Schedule 2, paragraph 28), in paragraph (b), for “sub-paragraph (5)” substitute “sub-paragraph (4)”.
- (5) After Schedule 2, insert Schedule 2A, as set out in Schedule 2 to these Regulations.

⁽²⁶⁾ S.I. 2001/1090, amended by S.I. 2009/1941. There are other amending instruments, but none is relevant.

⁽²⁷⁾ S.I. 2001/128, amended by S.S.I. 2009/310. There are other amending instruments, but none is relevant.

Amendments to Schedule 3

- 21.**—(1) Schedule 3 is amended as follows.
- (2) In the list of primary legislation in paragraph 2—
- (a) after “Taxes Management Act 1970**(28)**” insert—
“Land Registration Act (Northern Ireland) 1970**(29)**
 - (b) after “Prescription and Limitation (Scotland) Act 1973**(30)**”, insert—
“Judgments Enforcement (Northern Ireland) Order 1981**(31)**
 - (c) after “Companies Act 1989**(32)**” insert—
“Companies (No. 2) (Northern Ireland) Order 1990**(33)**
 - (d) after “Pension Schemes Act 1993**(34)**” insert—
“Pension Schemes (Northern Ireland) Act 1993**(35)**
 - (e) after “Pensions Act 1995**(36)**” insert—
“Pensions (Northern Ireland) Order 1995**(37)**
 - (f) after “Employment Rights Act 1996**(38)**” insert—
“Employment Rights (Northern Ireland) Order 1996**(39)**
 - (g) after “Pensions Act 2004**(40)**” insert—
“Pensions (Northern Ireland) Order 2005**(41)**
- (3) In the list of secondary legislation in paragraph 2—
- (a) after “Statutory Maternity Pay (General) Regulations 1986**(42)**” insert—
“Statutory Maternity Pay (General) (Northern Ireland) Regulations 1987**(43)**
 - (b) after “Financial Markets and Insolvency Regulations 1991**(44)**” insert—
“Financial Markets and Insolvency Regulations (Northern Ireland) 1991**(45)**
Land Registration Rules (Northern Ireland) 1994**(46)**
 - (c) omit “Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994**(47)**”;
 - (d) before “Insolvent Companies (Reports on Conduct of Directors) Rules 1996**(48)**” insert—

-
- (28)** 1970 c. 9.
(29) 1970 c. 18.
(30) 1973 c. 52.
(31) S.I. 1981/226 (N.I. 6).
(32) 1989 c. 40.
(33) S.I. 1990/1504 (N.I. 10).
(34) 1993 c. 48.
(35) 1993 c. 49.
(36) 1995 c. 26.
(37) S.I. 1995/3213 (N.I. 22).
(38) 1996 c. 18.
(39) S.I. 1996/1919 (N.I. 16).
(40) 2004 c. 35.
(41) S.I. 2005/255 (N.I. 1).
(42) S.I. 1986/1960.
(43) S.R. 1987 No. 30.
(44) S.I. 1991/880.
(45) S.R. 1991 No. 443.
(46) S.R. 1994 No. 424, amended by S.R. 2011 No. 141.
(47) S.I. 1994/3200.
(48) S.I. 1996/1909.

- “Insolvency Regulations (Northern Ireland) 1996**(49)**
- (e) after “Financial Markets and Insolvency Regulations 1996**(50)**” insert—
 “Financial Markets and Insolvency Regulations (Northern Ireland) 1996**(51)**
- (f) after “Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002**(52)**” insert—
 “Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002**(53)**
- (g) after “Financial Collateral Arrangements (No. 2) Regulations 2003**(54)**” insert—
 “Insolvent Companies (Reports on Conduct of Directors) Rules (Northern Ireland) 2003**(55)**
 Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules (Northern Ireland) 2003**(56)**
- (h) after “Pension Protection Fund (Entry Rules) Regulations 2005**(57)**”—
 “Pension Protection Fund (Entry Rules) Regulations (Northern Ireland) 2005**(58)**
- (i) after “Financial Assistance Scheme Regulations 2005**(59)**” insert—
 “Insolvency Practitioners Regulations (Northern Ireland) 2006**(60)**
- (j) omit “Registrar of Companies (Fees), (Companies, Overseas Companies and Limited Liability Partnerships) Regulations 2009**(61)**”;
- (k) after “Additional Statutory Paternity Pay (General) Regulations 2010”, insert—
 “Additional Statutory Paternity Pay (General) Regulations (Northern Ireland) 2010**(62)**;
 Registrar of Companies (Fees) Companies, Overseas Companies and Limited Liability Partnerships) Regulations 2012**(63)**
- (l) after “Statutory Parental Bereavement Pay (General) Regulations 2020**(64)**”, insert—
 “Statutory Parental Bereavement Pay (General) Regulations (Northern Ireland) 2023**(65)**
- (4) In paragraph 3—
- (a) in sub-paragraph (d), after “IA 1986” insert “or the I(NI)O 1989”;
- (b) in sub-paragraph (i), after “IA 1986” insert “or Article 3 of the I(NI)O 1989”;
- (c) in sub-paragraph (j), after “IA 1986” insert “and the I(NI)O 1989”;
- (d) in sub-paragraph (k), before paragraph (i), insert—

(49) S.R. 1996, No 574 .
(50) S.I. 1996/1469.
(51) S.R. 1996 No. 252.
(52) S.I. 2002/2822.
(53) S.R. 2002 No. 378.
(54) S.I. 2003/3226.
(55) S.R. 2003 No. 357.
(56) S.R. 2003 No. 358.
(57) S.I. 2005/590.
(58) S.R. 2005 No. 126.
(59) S.I. 2005/1986.
(60) S.R. 2006 No. 33.
(61) S.I. 2009/2101.
(62) S.R. 2010 No. 300.
(63) S.I. 2012/1907.
(64) S.I. 2020/233.
(65) S.R. 2023 No. 57.

- “(ai) the Insolvency Rules (Northern Ireland) 1991(66);”;
 - (e) in sub-paragraph (l), after “IA 1986” insert “or Article 6 of the I(NI)O 1989”;
 - (f) in sub-paragraph (m), after “IA 1986” insert “or the I(NI)O 1989”.
- (5) In the heading to paragraph 4, after “2004” insert “and the Pensions (Northern Ireland) Order 2005”.
- (6) In paragraph 4—
- (a) renumber the existing paragraph as sub-paragraph (1);
 - (b) after sub-paragraph (1) as so renumbered, insert—
 - “(2) In the Pensions (Northern Ireland) Order 2005, in Article 105(3)(d), the reference to entering administration within the meaning of paragraph 2(2)(b) of Schedule B1 to the I(NI)O 1989 is to be read as if it were to entering special administration.”.
- (7) In paragraph 5—
- (a) in sub-paragraph (b)—
 - (i) after “IA 1986” insert “and to the I(NI)O 1989”;
 - (ii) for “that Act” substitute “that legislation”;
 - (b) in sub-paragraph (c)—
 - (i) at the end of paragraph (i), omit “or”;
 - (ii) omit paragraph (ii).
- (8) For paragraph 6 and the preceding heading, substitute—

“Land Registration Rules

6. The following provisions are to be read as if the reference to administration were to special administration—

- (a) rule 166(1) of the Land Registration Rules (Northern Ireland) 1994, and
- (b) rule 184(1) of the Land Registration Rules 2003.”.

Date

Name
Name
Two of the Lords Commissioners of His
Majesty’s Treasury

SCHEDULE 1

Regulation 20(3)

Inserted Schedule 1A to the Payment and Electronic Money Institution Insolvency Regulations 2021

“SCHEDULE 1A

Regulation 47(1A)

How special administration applies to Northern Ireland LLPs

1. This Schedule makes provision about how special administration applies to institutions which are formed as limited liability partnerships under the law of Northern Ireland.

2. In this Schedule “LLPR (NI) 2004” means the Limited Liability Partnerships Regulations (Northern Ireland) 2004(67).

3. The provisions of the I(NI)O 1989 mentioned in the first column of the Table apply to institutions which are formed as limited liability partnerships with the further modifications (in addition to any set out in the table in regulation 37A) set out in the third column.

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| Those mentioned in regulation 5(2) of the LLPR (NI) 2004 | | Those set out in regulation 5(2) of the LLPR (NI) 2004 (except regulation 5(2)(f) of those Regulations). |
| Article 13 | Meaning of “contributory” | <p>of To be read as if—</p> <p>(a) in paragraph (1) for “every person” there were substituted—</p> <p>“every past and present member of the limited liability partnership”;</p> <p>(b) at the end of paragraph (2), there were inserted “or Article 178A (adjustment of withdrawals)”.</p> <p>(c) paragraph (3) were omitted.</p> |
| Article 61 | Liability of present and past members | <p>as To be read as if it were substituted with—</p> <p>“61.—(1) When a limited liability partnership goes into special administration, every present and past member of the limited liability partnership is liable to contribute to its assets as follows.</p> <p>(2) Where a member has agreed with the other members or with the limited liability partnership, that that member be liable to contribute to the assets of the limited liability partnership in the event that that body goes into liquidation or special administration, that member is liable, to the extent that they have so agreed, to contribute—</p> |

(67) S.R. 2004 No. 307.

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| | | (a) to its assets to any amount sufficient for payment of its debts and liabilities; (b) to the expenses of the special administration; (c) for the adjustment of the rights of the contributories among themselves. (3) A past member shall only be liable under this Article if the obligation arising from such agreement in paragraph (2) survived them ceasing to be a member of the limited liability partnership.”. |
| Articles 63-65 | Contributories | Omitted. |
| Article 69 | Companies registered under the Companies Act 2006 | Omitted. |
| Article 158 | Power to make over assets to employees | Omitted. |
| Article 163 | Resolutions passed at meetings | To be read as if after “contributories” there were inserted “or of the members of a limited liability partnership”. |
| Article 178 | Wrongful trading | To be read as if after paragraph (2), “but the High Court shall not” to the end of the paragraph were omitted. |
| After Article 178 | Adjustment of withdrawals | The I(NI) O 1989 is to be read as if after Article 178 there were inserted— |

“**178A.**—(1) This Article has effect in relation to a person (“P”) who is or has been a member of a limited liability partnership where, in the course of the special administration of that limited liability partnership, it appears that paragraph (2) of this Article applies in relation to P.

(2) This paragraph applies in relation to P if—

- (a) within the period of two years ending with the commencement of the special administration, P was a member of the limited liability partnership who withdrew property of the limited liability partnership, whether in the form of a share of profits, salary, repayment of or payment of interest on a loan to the limited liability partnership or any other withdrawal of property, and
- (b) it is proved by the administrator to the satisfaction of the court that at the time of the withdrawal P knew or had

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| | | <p>reasonable grounds for believing that the limited liability partnership—</p> <ul style="list-style-type: none"> (i) was at the time of the withdrawal unable to pay its debts, or (ii) would become so unable to pay its debts after the assets of the limited liability partnership had been depleted by that withdrawal taken together with all other withdrawals (if any) made by any members contemporaneously with that withdrawal or in contemplation when that withdrawal was made. <p>(3) Where this Article has effect in relation to P, the court, on the application of the administrator, may declare that P is to be liable to make such contribution (if any) to the limited liability partnership’s assets as the court thinks proper.</p> <p>(4) The court may not make a declaration in relation to P the amount of which exceeds the aggregate of the amounts or values of all the withdrawals referred to in paragraph (2) made by P within the period of two years referred to in that paragraph.</p> <p>(5) The court may not make a declaration under this Article with respect to P unless P knew or ought to have concluded that after each withdrawal referred to in paragraph (2) there was no reasonable prospect that the limited liability partnership would avoid going into an insolvency procedure under the Insolvency (Northern Ireland) Order 1989 or special administration.</p> <p>(6) For the purposes of paragraph (5) the facts which P ought to know or ascertain and the conclusions which P ought to reach are those which would be known, ascertained, or reached by a reasonably diligent person having both—</p> <ul style="list-style-type: none"> (a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by P in relation to the limited liability partnership, and (b) the general knowledge, skill and experience that P has. <p>(7) In this Article “member” includes a shadow member.</p> |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|---|---|---|
| | | (8) In this section a reference to being unable to pay debts is to be read in accordance with section 93(4) of the BA 2009 (as applied and modified by the EMR 2011 and the PSR 2017). |
| | | (9) This Article does not limit the effect of Article 178.”. |
| Article 179 | Proceedings under Article 177 or 178 | To be read as if— (a) in paragraph (1), for “Article 177 or 178” there were substituted “Article 177, 178 or 178A”; (b) in paragraph (2), for “either Article” there were substituted “any of those Articles”; (c) in paragraph (4), for “either Article” there were substituted “any of those Articles”; (d) in paragraph (5), for “Articles 177 and 178” there were substituted “Articles 177, 178 and 178A”. |
| Article 182 | Prosecution of delinquent officers and members of company | To be read as if— (a) in paragraph (1), for “officer, or any member, of the company” there were substituted “member of the limited liability partnership”; (b) in paragraph (2), (3) and (5) for “officer of the company, or any member of it,” there were substituted “member of the limited liability partnership”. |
| Article 346 and Schedule 4 to the I(NI)O 1989 (and Schedule 3 to the Pension Schemes (Northern Ireland) Act 1993) | Preferential debts | To be read as if, in Article 346— (a) in paragraph (1), “or an individual” were omitted; (b) in paragraph (2), “or the individual” were omitted. |
| Article 347 | “The relevant date” | To be read as if paragraphs (5) and (6) were omitted. |
| Article 373 | Offences by bodies corporate | To be read as if the reference to “secretary” in section 20(2) of the IA(NI) 1954, as referred to in Article 374(4), were omitted. |
| Schedule paragraph 43 | B1, Moratorium on insolvency proceedings | To be read as if for sub-paragraph (2) there were substituted— “(2) No determination to wind up the limited liability partnership voluntarily may be made.”. |
| Schedule paragraph 62 | B1, Directors | To be read as if for paragraph 62 there were substituted— “ 62. The administrator may prevent any person from taking part in the management of the business |

| <i>Provision</i> | <i>Subject</i> | <i>Modifications</i> |
|------------------------|------------------------------------|---|
| | | of the limited liability partnership and may appoint any person to be a manager of that business.” |
| Schedule paragraph 63 | B1, Power to call meetings | To be read as if— (a) the existing provision were renumbered as sub-paragraph (1); (b) after that sub-paragraph there were inserted— “(2) The meeting must be held in a manner provided by the Payment and Electronic Money Institution Insolvency Regulations 2021, special administration insolvency rules or the limited liability partnership agreement. (3) The quorum required for a meeting of the members of the limited liability partnership is any quorum required by the limited liability partnership agreement for meetings of the members of the limited liability partnership and if no requirement for a quorum has been agreed upon, the quorum is 2 members.”. |
| Schedule paragraph 92 | B1, Replacement | To be read as if sub-paragraph (1)(c) were omitted. |
| Schedule paragraph 106 | B1, Majority decision of directors | Omitted. |

4. The CDD(NI)O 2002 as applied and modified by these Regulations applies to institutions which are formed as limited liability partnerships with the further modifications set out in regulation 4(2) of and Part 2 of Schedule 2 to the LLPR (NI) 2004.

5. The following legislation applies to institutions which are formed as limited liability partnerships with such modifications as the context requires—

- (a) to give effect to the I(NI)O 1989 as applied and modified by these Regulations—
 - (i) the Insolvency Practitioners Regulations (Northern Ireland) 2006(68);
 - (ii) the Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991(69);
 - (iii) the Insolvency (Fees) Order (Northern Ireland) 2006(70);
 - (iv) the Insolvency (Deposits) Order (Northern Ireland) 2006(71); and
- (b) to give effect to the CDD(NI)O 2002 as applied and modified by these Regulations and the CA 2006—
 - (i) the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules (Northern Ireland) 2003(72);
 - (ii) the Uncertificated Securities Regulations 2001(73);

(68) S.R. 2006 No. 33.
(69) S.R. 1991 No. 301.
(70) S.R. 2006 No. 54.
(71) S.R. 2006 No. 55.
(72) S.R. 2003 No. 358.
(73) S.I. 2001/3755.

(iii) the Insolvent Companies (Reports on Conduct of Directors) Rules (Northern Ireland) 2003(74).”

SCHEDULE 2

Regulation 20(5)

Inserted Schedule 2A to the Payment and Electronic Money Institution Insolvency Regulations 2021

“SCHEDULE 2A

Regulation 47(2A)

How special administration applies to Northern Ireland partnerships

1. This Schedule makes provision about how special administration applies to institutions which are formed as partnerships under the law of Northern Ireland.

2. In this Schedule “IPO (NI) 1995” means the Insolvent Partnerships Order (Northern Ireland) 1995(75).

3. Where an institution is formed as a partnership, then—

(a) in these Regulations, and

(b) in the CDD(NI)O 2002 as applied and modified by these Regulations,

references to the things in the first column of Table 1 are to be read in accordance with the corresponding modification in the second column.

Table 1

| <i>Reference</i> | <i>Modification</i> |
|---|---|
| References to companies | To be read as if they were references to partnerships. |
| References to the registrar of companies | To be omitted. |
| References to shares of a company | To be read as if they were— (a) in relation to a partnership with capital, to rights to share in that capital, and (b) in relation to a partnership without capital, to interests— (i) conferring any right to share in the profits or liability to contribute to the losses of the partnership, or (ii) giving rise to an obligation to contribute to the debts or expenses of the partnership in the event of special administration. |
| Other references appropriate to companies | To be read as if they were to the corresponding persons, officers, documents or organs (as the case may be) appropriate to a partnership. |

(74) S.R. 2003 No. 357.

(75) S.R. 1995 No. 225, as amended by S.R. 2006/515.

4. Table 2 sets out—
- (a) in the first column, versions of provisions of the I(NI)O 1989 set out in the IPO (NI) 1995 (“IPO (NI) 1995 version”),
 - (b) in the second column, the subject of each of those versions, and
 - (c) in the third column, modifications to those versions.

5. Each IPO (NI) 1995 version in the first column of Table 2 applies to an institution which is formed as a partnership with any corresponding modification in the third column.

6. Where there is an entry for an IPO (NI) 1995 version in Table 2, that version of the provision of the I(NI)O 1989 applies, as modified by Table 2, to an institution which is formed as a partnership, and the entry relating to that provision of the I(NI)O 1989 in the table in regulation 37A is to be disregarded.

Table 2

| <i>Provision (IPO (NI) 1995 version)</i> | <i>Subject</i> | <i>Modifications</i> |
|---|--------------------------------------|--|
| Provisions Schedule B1 | except | |
| Generally (for those provisions mentioned below except Schedule B1) | | To be read as if references to— (a) references to the I(NI)O 1989 were to these Regulations, (b) references to a provision of the I(NI)O 1989 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations, (c) being wound up were to being in special administration; (d) office-holder were to the administrator; (e) an insolvency order were to a special administration order. |
| Schedule 1 (version in Schedule 2, paragraph 57) | Powers administrator | of To be read as if paragraph 20 were omitted. |
| Article 198 (version in Schedule 3, paragraph 9) | Getting in the partnership property | To be read as if the reference in paragraph (1) to Article 7 of the IPO (NI) 1995 were to regulation 10. |
| Schedule 2 (version in Schedule 3, paragraph 10) | Powers of liquidator in a winding-up | To be read as if— (a) paragraphs 4 to 11, and paragraph 13, were omitted; (b) in paragraph 14, the reference to winding up the partnership’s affairs and distributing |

| <i>Provision (IPO (NI) Subject 1995 version)</i> | <i>Modifications</i> |
|--|--|
| | its property were to pursuing the special administration objectives. |
| Article 175 (version in False representations to Schedule 4, paragraph 25) creditors | To be read as if for paragraph (1) there were substituted— “(1) This Article applies where a special administration order is made in respect of an insolvent partnership.”. |
| Schedule B1 | |
| Generally (for those paragraphs mentioned below) | To be read as if— (a) references to a provision of the I(NI)O 1989 which is applied and modified by these Regulations were to the provision as applied and modified by these Regulations; (b) references to action included inaction; (c) references to the administrator were to the administrator appointed under regulation 7; (d) references to the court were to the court as defined in regulation 6; (e) references to the creditors’ meeting were to have the meaning given by paragraph 51 of Schedule B1 as applied and modified by these Regulations; (f) references to entering administration were to entering special administration; (g) references to a hire purchase agreement included a conditional sale agreement, a chattel leasing agreement and a retention of title agreement; (h) references to an insolvency order were to a special administration order; (i) references to an insolvency petition were to an application for a special administration order; (j) references to insolvency proceedings were to special administration; (k) references to market value were to the amount which would be realised on a sale |

| <i>Provision (IPO (NI) Subject 1995 version)</i> | <i>Modifications</i> |
|--|--|
| | <p>of property in the open market by a willing vendor;</p> <p>(l) references to the purpose of administration were to the pursuit of the special administration objectives;</p> <p>(m) references to a partnership were to an institution;</p> <p>(n) references to the partnership being in administration were to the institution being in special administration;</p> <p>(o) references to a responsible insolvency practitioner were to the administrator;</p> <p>(p) references to a thing in writing included a thing in electronic form;</p> <p>(q) references to being unable to pay debts were to be read in accordance with section 93(4) of the BA 2009 (as applied and modified by the EMR 2011 and the PSR 2017).</p> |
| Paragraph 43 (version in Schedule 2, paragraph 22) | <p>on To be read as if sub-paragraph (5)(a) were omitted.</p> |
| Paragraph 44 (version in Schedule 2, paragraph 23) | <p>Moratorium on other legal processes</p> |
| Paragraph 48 (version in Schedule 2, paragraph 26) | <p>of To be read as if in sub-paragraph (2), the statement were also required to include particulars of the relevant funds held by the institution.</p> |
| Paragraph 50 (version in Schedule 2, paragraph 27) | <p>Administrator’s proposals</p> <p>To be read as if—</p> <p>(a) sub-paragraph (2)(b) were omitted;</p> <p>(b) in sub-paragraph (4), the administrator were also required to send a copy of the statement of proposals to every user or holder of whose claim the administrator is aware and who the administrator has a means of contacting, and to the FCA;</p> <p>(c) the administrator were also required to give notice that the statement of proposals is to be provided free of charge to a payment</p> |

| <i>Provision (IPO (NI) Subject 1995 version)</i> | <i>Modifications</i> |
|---|--|
| | system operator who applies in writing to a specified address. |
| | The application of paragraph 50(1) to (3) is subject to regulation 38(6)(b). |
| Paragraph 62 (version in Directors Schedule 2, paragraph 30) | |
| Paragraph 66 (version in Distribution Schedule 2, paragraph 31) creditors | to To be read as if sub-paragraph (3) were omitted. |
| Paragraph 70 (version in Agency Schedule 2, paragraph 32) | |
| Paragraph 74 (version in Protection for secured Schedule 2, paragraph 35) or preferential creditors | |
| Paragraph 75 (version in Challenge administrator's Schedule 2, paragraph 36) conduct | to To be read as if— (a) the FCA were also empowered to make an application to the court, on the grounds that— (i) the administrator is acting or has acted so as unfairly to harm the interests of some or all of the members, creditors or users or holders; (ii) the administrator is proposing to act in a way which would unfairly harm the interests of some or all of the members, creditors or users or holders; (iii) the administrator has failed to carry out a reconciliation in accordance with regulation 13; (b) a user or holder were also empowered to make an application to the court under sub-paragraph (1) or (2); (c) any of the following persons were also empowered to make an application on the grounds that the administrator is not taking any action in response to a request from that person under regulation 35(3) and that the person is of the opinion that the action requested would not lead to a material reduction in the value of the property of the institution— (i) the Bank of England; |

| <i>Provision (IPO (NI) Subject 1995 version)</i> | <i>Modifications</i> |
|--|---|
| | <p>(ii) the Treasury;</p> <p>(iii) the FCA;</p> <p>(iv) the Payment Systems Regulator;</p> <p>(d) the following persons were also empowered to make an application on the grounds that the administrator has made, or proposes to make, a PPTA in contravention of regulation 32 or 34—</p> <p>(i) the Bank of England;</p> <p>(ii) the FCA;</p> <p>(e) any person, other than the institution, who is party to an arrangement of a kind referred to in regulation 31(1).</p> <p>were also empowered to make an application on the grounds that the administrator has made, or proposes to make, a relevant transfer in contravention of that regulation;</p> <p>(f) where an application is made on the grounds that the administrator has made a relevant transfer in contravention of regulation 34—</p> <p>(i) sub-paragraphs (3)(a), (d) and (e) and (4) were omitted;</p> <p>(ii) the court were also empowered to make an order declaring that the transfer was made in contravention of the regulation concerned;</p> <p>(g) where an application is made on the grounds that the administrator has made a relevant transfer in contravention of regulation 32 or 33, the court were also empowered to make such order as it thinks fit for restoring the position to what it would have been if the transfer had not been made in contravention of the regulation concerned;</p> <p>(h) where the FCA has given a direction under regulation 38, which has not been withdrawn, the court did not have power to</p> |

| <i>Provision (IPO (NI) Subject 1995 version)</i> | <i>Subject</i> | <i>Modifications</i> |
|---|--|---|
| | | make an order if it would impede or prevent compliance with the direction. |
| Paragraph 85 (version in Schedule 2, paragraph 40) | Termination: no more relevant funds for distribution | To be read as if— (a) the administrator were only empowered to file a notice under sub-paragraph (1) if the institution no longer holds relevant funds; (b) in sub-paragraph (4), a copy of the notice were to be sent to every client of the institution of whom the administrator is aware and the FCA. |
| Paragraph 88 (version in Schedule 2, paragraph 41) | Resignation | To be read as if— (a) where the administrator was appointed by the court on the application of the FCA or the Secretary of State, the notice given in accordance with sub-paragraph (2)(a) must also be given to the applicant; (b) sub-paragraph (2)(b) were omitted. |
| Paragraph 90 (version in Schedule 2, paragraph 42) | Disqualification | To be read as if— (a) where the administrator was appointed by the court on the application of the FCA or the Secretary of State, the notice given in accordance with sub-paragraph (2)(a) were also to be given to the applicant; (b) sub-paragraph (2)(b) were omitted. |
| Paragraph 91 (version in Schedule 2, paragraph 43) | Replacement | To be read as if the reference to paragraphs 92, 94 and 96 were to paragraph 92. |
| Paragraph 92 (version in Schedule 2, paragraph 44) | Replacement | To be read as if the FCA were added to the list of persons who may make an application to appoint an administrator but to whom the restrictions in sub-paragraph (2) apply. |
| Paragraph 104 (version in Schedule 2, paragraph 54) | Joint administrators | To be read as if— (a) in sub-paragraph (2)(a), the reference to paragraph 13(1)(a) to (c) were to regulation 8(1); (b) sub-paragraph (3) were omitted. |
| Paragraph 106 (version in Schedule 2, paragraph 55) | Majority decision of directors | |

| <i>Provision (IPO (NI) Subject 1995 version)</i> | <i>Subject</i> | <i>Modifications</i> |
|---|----------------|---|
| Paragraph 107 (version in Schedule 2, paragraph 56) | Fines | To be read as if sub-paragraph (2)(a), (i) and (j) was omitted. |

7. Article 16 of the IPO (NI) 1995 applies to an institution which is formed as a partnership—
- (a) reading Article 16 as if the reference to being wound up under the I(NI)O 1989 were to entering special administration;
 - (b) reading the reference to the provisions of the CDD(NI)O 2002 as if it were a reference to—
 - (i) Articles 3, 4, 12 to 14, 19C and 23 of that Order as applied and modified by regulation 46A, and
 - (ii) the versions of Articles 9 to 11, 18 to 19 and 21 of and Schedule 1 to that Order set out in Schedule 8 to the IPO (NI) 1995, reading those versions as if they were modified by regulation 46A,

subject to the further general modifications of the provisions mentioned in sub-paragraphs (a) and (b) in paragraph 8.

8. The general modifications are—
- (a) references to a provision of the I(NI)O 1989 which is applied and modified by these Regulations are to be read as if they were to the provision as applied and modified by these Regulations;
 - (b) references to being wound up are to be read as if they were to the partnership being in special administration;
 - (c) references to office-holder are to be read as if they were to the administrator;
 - (d) references to an insolvency order are to be read as if they were to a special administration order.

9. Article 18 of and Schedule 10 to the IPO (NI) 1995 apply to institutions which are formed as partnerships—

- (a) reading Article 18 as if—
 - (i) in paragraph (1) from “giving effect” to “this Order” were substituted with “giving effect to the provisions of the I(NI)O 1989 and the CDD(NI)O 2002 as applied and modified by these Regulations”;
 - (ii) in paragraph (2) the reference to the IPO (NI) 1995 were to these Regulations;
- (b) reading Schedule 10 as if the list of legislation included any special administration insolvency rules and the following legislation were omitted—

The Insolvency (Monetary Limits) Order (Northern Ireland) 1991⁽⁷⁶⁾

The Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991⁽⁷⁷⁾

The Companies (Disqualification Orders) Regulations (Northern Ireland) 2003⁽⁷⁸⁾

The Insolvency Practitioners and Insolvency Account (Fees) Order (Northern Ireland) 2006⁽⁷⁹⁾

⁽⁷⁶⁾ S.R. 1991 No. 386.

⁽⁷⁷⁾ S.R. 1991 No. 365 as amended by S.R. 2003 No. 103.

⁽⁷⁸⁾ S.R. 2003 No. 347.

⁽⁷⁹⁾ S.R. 2006 No. 53.

The Insolvency (Fees) Order (Northern Ireland) 2006⁽⁸⁰⁾

The Insolvency (Deposits) Order (Northern Ireland) 2006⁽⁸¹⁾.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Payment and Electronic Money Institution Insolvency Regulations 2021 (“the Regulations”), so that they are extended to limited liability partnerships formed under the law of Scotland. They also extend the Regulations to payment institutions and electronic money institutions incorporated in, or formed under, the law of Northern Ireland (“Northern Ireland institutions”). For this purpose, the Insolvency (Northern Ireland) Order 1989, the Limited Liability Partnerships Regulations (Northern Ireland) 2004 and the Insolvent Partnerships Order (Northern Ireland) 1995 are applied to Northern Ireland institutions with the necessary modifications to allow Northern Ireland institutions to be put into special administration.

A de minimis impact assessment of the effect these Regulations will have on business and the voluntary sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.gov.uk and is published alongside these Regulations on www.legislation.gov.uk.

⁽⁸⁰⁾ S.R. 2006 No. 54.

⁽⁸¹⁾ S.R. 2006 No. 55