

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

The Insolvency (Northern Ireland) Order 1989 (NI 19)

4.—(1) The Order of 1989 is amended as follows.

(2) In Article 2 (general interpretation) in paragraph (2) in the definition of “official receiver” for “or individual voluntary arrangement” (in both places) substitute “, individual voluntary arrangement, debt relief order or application for such an order”.

(3) In the cross heading immediately preceding Article 9 for “Parts VIII to X” substitute “Parts 7A to 10”.

(4) In Article 9 (interpretation)—

(a) in paragraph (1)—

(i) for “Parts VIII to X” substitute “Parts 7A to 10”;

(ii) in the definition of “the debtor”, before sub-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,”;

(iii) after the definition of “debtor’s petition” insert—

““debt relief order” means an order made by the official receiver under Part 7A,”;

(b) in paragraph (2) for “Parts VIII to X” substitute “Parts 7A to 10”.

(5) In Article 10 (“security”, etc.) in paragraph (1) for “Parts VIII to X” substitute “Parts 7A to 10”.

(6) In Article 41 (disqualification of bankrupt)—

(a) in the heading to that Article after “bankrupt” insert “or person in respect of whom a debt relief order is made”;

(b) in paragraph (1)—

(i) after sub-paragraph (a) insert—

“(aa) a moratorium period under a debt relief order applies in relation to him, or”;

(ii) in sub-paragraph (b) after “order” insert “or a debt relief restrictions order”.

(7) After Article 248 (action on report of insolvency practitioner) insert—

“Debtor who meets conditions for a debt relief order

248A.—(1) This Article applies where, on the hearing of a debtor’s petition—

- (a) it appears to the High 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 Article 247.

(2) If the High 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 paragraph (2) the High 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.”.

(8) In Article 344 (time-limits) for “Parts VIII to X” substitute “Parts 7A to 10”.

(9) In Article 349 (persons not qualified to act as insolvency practitioners)—

(a) in paragraph (4) after sub-paragraph (a) insert—

“(aa) a moratorium period under a debt relief order applies in relation to him,”;

(b) in paragraph (5) after “order” insert “or a debt relief restrictions order”.

(10) In Article 361 (fees orders) in paragraph (1) before sub-paragraph (a) insert—

“(za) the costs of persons acting as approved intermediaries under Part 7A;”.

(11) In Article 361A (fees orders (supplementary)) before paragraph (1) insert—

“(A1) The Department—

(a) may, with the concurrence of the Department of Finance and Personnel, by order subject to negative resolution 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 Article 208U, and

(b) may refuse to grant, or may withdraw, any such designation where a fee is not paid.”.

(12) In Article 362 (monetary limits) in paragraph (1)(b)—

(a) at the beginning of the list of provisions insert—

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

- “Article 208S(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 (before “or”) insert—
“paragraphs 6 to 8 of Schedule 2ZA (maximum amount of a person’s debts, monthly surplus income and property for purposes of obtaining a debt relief order);”.
- (13) In Article 370 (Assembly disqualification)—
- (a) for paragraph (1) substitute—
“(1) If the High Court makes any order mentioned in paragraph (1A) in respect of a member of the Assembly, the Court shall notify the presiding officer of the Assembly.
(1A) The orders are—
(a) a bankruptcy restrictions order;
(b) a debt relief restrictions order;
(c) an interim bankruptcy restrictions order; or
(d) an interim debt relief restrictions order.”;
- (b) in paragraph (2) after “bankruptcy restrictions undertaking” insert “or a debt relief restrictions undertaking”.
- (14) In Schedule 6 (provisions capable of inclusion in individual insolvency rules)—
- (a) in paragraph 1 for “Parts VIII to X” substitute “Parts 7A to 10”;
- (b) in paragraph 2 for “Parts VIII to X” substitute “Parts 7A to 10”;
- (c) in paragraph 3 for “Parts VIII to X” substitute “Parts 7A to 10”;
- (d) in paragraph 4 for “Parts VIII to X” substitute “Parts 7A to 10”;
- (e) in paragraph 5 for “Parts VIII to X” substitute “Parts 7A to 10”;
- (f) after paragraph 5 insert—

“Debt relief orders

5A. Provision as to the manner in which the official receiver is to carry out his functions under Part 7A.

5B. 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.

5C. 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

5D. 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.

5E. Provision about the register required to be maintained by Article 208W 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.”;
 - (g) in paragraph 12 for “Parts VIII to X” substitute “Parts 7A to 10”;
 - (h) in paragraph 22(a) for “Parts VIII to X” substitute “Parts 7A to 10”.
- (15) In the Table in Schedule 7 (punishment of offences)—
- (a) in the entry relating to Article 41(1), 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”;
 - (b) after the entry relating to Article 199(5) insert the following entries—

“208O(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. 6 months or the statutory maximum, or both.
208O(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. 6 months or the statutory maximum, or both.
208O(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. 6 months or the statutory maximum, or both.

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208O(4)(a)	Failing to comply with duty in connection with a debt relief order.	<ol style="list-style-type: none"> 1. On indictment 2. Summary 	<p>2 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.</p>
208O(4)(b)	False representations or omissions in connection with a duty in relation to a debt relief order.	<ol style="list-style-type: none"> 1. On indictment 2. Summary 	<p>7 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.</p>
208P(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.	<ol style="list-style-type: none"> 1. On indictment 2. Summary 	<p>7 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.</p>
208P(2)	Person in respect of whom debt relief order is made doing anything falling within subparagraphs (c) to (e) of Article 208P(1) during the period of 12 months ending with the application date or doing anything falling within subparagraphs (b) to (e) of Article 208P(1) after that	<ol style="list-style-type: none"> 1. On indictment 2. Summary 	<p>7 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.</p>

	date but before the effective date.		
208Q(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. 6 months or the statutory maximum, or both.
208R(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. 6 months or the statutory maximum, or both.
208R(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. 6 months or the statutory maximum, or both.
208S(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. 6 months or the statutory maximum, or both.”.