Status: Point in time view as at 01/01/2006. This version of this provision has been superseded.
Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Section 104 is up to date with all changes known
to be in force on or before 30 June 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. (See end of Document for details)

STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

^{F1}PART V

WINDING UP OF COMPANIES REGISTERED
UNDER THE COMPANIES ORDERS

CHAPTER VI

WINDING UP BY THE HIGH COURT

Grounds and effect of winding#up petition

Application for winding up

104.—(1) Subject to the provisions of this Article, an application to the High Court for the winding up of a company shall be by petition presented either by the company, or the directors, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories[**^{F1}**, or by a liquidator (within the meaning of Article 2(b) of the EC Regulation) appointed in proceedings by virtue of Article 3(1) of the EC Regulation or a temporary administrator (within the meaning of Article 38 of the EC Regulation)**]**,[**^{F2}** or by the chief clerk in exercise of the power conferred by section 35(4A) of the Criminal Justice Act (Northern Ireland) 1945 (enforcement of fines imposed on companies) or a clerk of petty sessions in exercise of the power conferred by Article 92A of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of fines imposed on companies)**]** or by all of any of those parties, together or separately.

(2 ^{F3} Except as mentioned in paragraph (3), a contributory is not entitled to present a winding# up petition unless either—

    (a) the number of members is reduced below 2, or

    (b) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his name, for at least 6 months during the 18 months before the commencement of the winding up, or have devolved on him through the death of a former holder.

(3 ^{F3} A person who is liable under Article 63 to contribute to a company's assets in the event of its being wound up may petition on either of the grounds set out in Article 102(f) and (g), and paragraph (2) does not then apply; but unless the person is a contributory otherwise than under Article 63, he may not in his character as contributory petition on any other ground.

(4 ^{F3} Paragraph (3) is deemed included in Chapter VII of Part VI of the Companies Order (redeemable shares; purchase by a company of its own shares) for the purposes of the Department's power to make regulations under Article 189 of that Order.

[**^{F4}**(4A ^{F3} A winding-up petition on the ground set out in Article 102(fa) may only be presented by one or more creditors**]**

(5) A winding#up petition may be presented by the Department—

  (a **F3** if the ground of the petition is that in Article 102(b) or (c), or

[F5(b) in a case falling within Article 104A**[F6** or 104B**].]**

F7(6) Where a company is being wound up voluntarily, a winding#up petition may be presented by the official receiver as well as by any other person authorised in that behalf under the other provisions of this Article; but the High Court shall not make a winding#up order on the petition unless it is satisfied that the voluntary winding up cannot be continued with due regard to the interests of the creditors or contributories.

F1	SR 2002/334
F2	1994 NI 15
F3	mod. by SR 2004/307
F4	2002 NI 6
F5	1990 NI 10
F6	SR 2004/417
F7	prosp. insertion by 2005 NI 17