
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PARTS II TO VI COMPANY INSOLVENCY; COMPANIES WINDING UP

PART V

WINDING UP OF COMPANIES REGISTERED
UNDER THE COMPANIES ORDERS

CHAPTER X

MALPRACTICE BEFORE AND DURING LIQUIDATION; PENALISATION OF
COMPANIES AND COMPANY OFFICERS; INVESTIGATIONS AND PROSECUTIONS

Investigation and prosecution of malpractice

Prosecution of delinquent officers and members of company

182.—(1) If it appears to the High Court in the course of a winding up by the Court that any past or present officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the Court may (either on the application of a person interested in the winding up or of its own motion) direct the liquidator to refer the matter to the Director of Public Prosecutions for Northern Ireland, in this Article and Article 183 referred to as “the prosecuting authority”.

(2) If in the case of a winding up by the High Court it appears to the liquidator, not being the official receiver, that any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, the liquidator shall report the matter to the official receiver.

(3) If it appears to the liquidator in the course of a voluntary winding up that any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, he shall—

- (a) forthwith report the matter to the prosecuting authority, and
- (b) furnish to that authority such information and give to him such access to and facilities for inspecting and taking copies of documents (being information or documents in the possession or under the control of the liquidator and relating to the matter in question) as the authority requires.

(4) Where a report is made to him under paragraph (3), the prosecuting authority may, if he thinks fit, refer the matter to the Department for further enquiry; and the Department—

- (a) shall thereupon investigate the matter, and
- (b) for the purpose of its investigation may exercise any of the powers which are exercisable by inspectors appointed under Article 424 or 425 of the Companies Order to investigate a company’s affairs.

(5) If it appears to the High Court in the course of a voluntary winding up that—

- (a) any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, and
- (b) no report with respect to the matter has been made by the liquidator to the prosecuting authority under paragraph (3),

the Court may (on the application of any person interested in the winding up or of its own motion) direct the liquidator to make such a report.

(6) On a report being made under paragraph (5), this Article has effect as though the report had been made in pursuance of paragraph (3).