
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PARTS II TO VII COMPANY INSOLVENCY; COMPANIES WINDING UP

PART VI

WINDING UP OF UNREGISTERED COMPANIES

Inability to pay debts: other cases

188.—(1) An unregistered company is deemed (for the purposes of Article 185) unable to pay its debts—

- (a) if, in Northern Ireland, a certificate of unenforceability has been granted in respect of a judgment against the company under Article 19 of the Judgments Enforcement (Northern Ireland) Order 1981⁽¹⁾;
- (b) if, in England and Wales, execution or other process issued on a judgment, decree or order obtained in any court in favour of a creditor against the company, or any member of it as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied;
- (c) if, in Scotland, the *induciae* of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made;
- (d) it is otherwise proved to the satisfaction of the High Court that the company is unable to pay its debts as they fall due.

(2) An unregistered company is also deemed unable to pay its debts if it is proved to the satisfaction of the High Court that the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.