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## STATUTORY INSTRUMENTS

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# 1989 No. 2405

## The Insolvency (Northern Ireland) Order 1989

### PART VII

#### MISCELLANEOUS PROVISIONS APPLYING TO COMPANIES WHICH ARE INSOLVENT OR IN LIQUIDATION

*Management by administrators, liquidators, etc.*

#### [<sup>F1</sup>Protection of supplies of goods and services

**197B.**—(1) This Article applies where a company becomes subject to a relevant insolvency procedure.

(2) A company becomes subject to a relevant insolvency procedure for the purposes of this Article where—

- (a) a moratorium under Part 1A comes into force for the company,
- (b) the company enters administration,
- (c) an administrative receiver of the company is appointed (otherwise than in succession to another administrative receiver),
- (d) a voluntary arrangement approved under Part 2 takes effect in relation to the company,
- (e) the company goes into liquidation,
- (f) a provisional liquidator of the company is appointed (otherwise than in succession to another provisional liquidator), or
- (g) a court order is made under section 901C(1) of the Companies Act 2006 in relation to the company (order summoning meeting relating to compromise or arrangement).

(3) A provision of a contract for the supply of goods or services to the company ceases to have effect when the company becomes subject to the relevant insolvency procedure if and to the extent that, under the provision—

- (a) the contract or the supply would terminate, or any other thing would take place, because the company becomes subject to the relevant insolvency procedure, or
- (b) the supplier would be entitled to terminate the contract or the supply, or to do any other thing, because the company becomes subject to the relevant insolvency procedure.

(4) Where—

- (a) under a provision of a contract for the supply of goods or services to the company the supplier is entitled to terminate the contract or the supply because of an event occurring before the start of the insolvency period, and
- (b) the entitlement arises before the start of that period,

the entitlement may not be exercised during that period.

**Changes to legislation:** The Insolvency (Northern Ireland) Order 1989, Section 197B is up to date with all changes known to be in force on or before 08 July 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) View outstanding changes

(5) Where a provision of a contract ceases to have effect under paragraph (3) or an entitlement under a provision of a contract is not exercisable under paragraph (4), the supplier may terminate the contract if—

- (a) in a case where the company has become subject to a relevant insolvency procedure as specified in paragraph (2)(b), (c), (e) or (f), the office-holder consents to the termination of the contract,
- (b) in any other case, the company consents to the termination of the contract, or
- (c) the High Court is satisfied that the continuation of the contract would cause the supplier hardship and grants permission for the termination of the contract.

(6) Where a provision of a contract ceases to have effect under paragraph (3) and the company becomes subject to a further relevant insolvency procedure, the supplier may terminate the contract in accordance with paragraph (5)(a) to (c).

(7) The supplier shall not make it a condition of any supply of goods and services after the time when the company becomes subject to the relevant insolvency procedure, or do anything which has the effect of making it a condition of such a supply, that any outstanding charges in respect of a supply made to the company before that time are paid.

(8) In this Article “the insolvency period”, in relation to a relevant insolvency procedure, means the period beginning when the company becomes subject to the relevant insolvency procedure and ending—

- (a) in the case of a moratorium under Part 1A, when the moratorium comes to an end,
- (b) in the case of the company entering administration, when the appointment of the administrator ceases to have effect under —
  - (i) paragraphs 77 to 85 of Schedule B1, or
  - (ii) an order under section 901F of the Companies Act 2006,
- (c) in the case of the appointment of an administrative receiver of the company, when the receiver or any successor to the receiver ceases to hold office without a successor being appointed,
- (d) in the case of a voluntary arrangement approved under Part 2 taking effect in relation to the company, when the arrangement ceases to have effect,
- (e) in the case of the company going into liquidation, when the liquidator has—
  - (i) pursuant to Article 80(1), laid the account of the winding up before a general meeting of the company and given an explanation of it,
  - (ii) pursuant to Article 92(1), laid the account of the winding up before a general meeting of the company and a meeting of the creditors and given an explanation of it to each meeting, or
  - (iii) pursuant to Article 124(1), given the liquidator's report of the winding up to a general meeting of the company's creditors,
 or when the appointment of the liquidator ceases to have effect under an order under section 901F of the Companies Act 2006,
- (f) in the case of the appointment of a provisional liquidator for the company, when the provisional liquidator or any successor to the provisional liquidator ceases to hold office without a successor being appointed, and
- (g) in the case of the making of a court order under section 901C(1) of the Companies Act 2006 in relation to the company, when—
  - (i) an order made by the High Court under section 901F of that Act takes effect, or
  - (ii) the High Court decides not to make such an order.

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(9) In this Article “office-holder”, in relation to a company which has entered into an insolvency procedure as specified in paragraph (2)(b), (c), (e) or (f), means the administrator, administrative receiver, liquidator or provisional liquidator respectively.

(10) Schedule 2ZZA provides for exclusions from the operation of this Article.]

**F1** Arts. 197B, 197C inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), **ss. 18(1)**, 49(1) (with [ss. 2\(2\)](#), [5\(2\)](#), [18\(4\)](#))

**Modifications etc. (not altering text)**

- C1** Pt. 7 applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), **Sch. 1A para. 3** (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), [reg. 1\(2\)](#), **Sch. 1**)
- C2** Art. 197B excluded (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), **ss. 19**, 49(1) (with [ss. 2\(2\)](#), [5\(2\)](#))
- C3** Arts. 197-197B applied by [S.R. 1995/225](#), **art. 4(3)(b)** (as amended (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), [s. 49\(1\)](#), **Sch. 13 para. 5** (with [ss. 2\(2\)](#), [5\(2\)](#), [18\(4\)](#)))

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Instrument amended by [1998 c. 11 s. 23 Sch. 5 Pt.1 Ch. 3 para. 40](#)
- Instrument amended (prosp) by [S.I. 1994/279 \(N.I.\) art. 26\(1\)Sch. 2 para. 15](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 9 Pt. 2 para. 66 revoked by [1996 c. 23 s. 107\(2\)Sch. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov.uk](#))
- art. 2B inserted by [2016 c. 2 \(N.I.\) s. 2\(1\)](#)
- art. 208ZA applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZA is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 208ZA-208ZB inserted by [2016 c. 2 \(N.I.\) s. 1\(1\)](#)
- art. 208ZB applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZB is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 345A-345B inserted by [2016 c. 2 \(N.I.\) s. 1\(2\)](#)