

## STATUTORY INSTRUMENTS

# 1989 No. 2405

## The Insolvency (Northern Ireland) Order 1989

### PART VII

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

##### *Adjustment of prior transactions (administration and liquidation)*

#### Preferences

**203.**—(1) This Article applies as does Article 202.

(2) Where the company has at a relevant time (as defined in Article 204) given a preference to any person, the office#holder may apply to the High Court for an order under this Article.

(3) Subject to paragraph (5) and Article 205(2), the High Court shall, on such an application, make such order as it thinks fit for restoring the position to what it would have been if the company had not given that preference.

(4) For the purposes of this Article and Article 205, a company gives a preference to a person if—

- (a) that person is one of the company's creditors or a surety or guarantor for any of the company's debts or other liabilities, and
- (b) the company does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event of the company going into insolvent liquidation, will be better than the position he would have been in if that thing had not been done.

(5) The High Court shall not make an order under this Article in respect of a preference given to any person unless the company which gave the preference was influenced in deciding to give it by a desire to produce in relation to that person the effect mentioned in paragraph (4)(b).

(6) A company which has given a preference to a person connected with the company (otherwise than by reason only of being its employee) at the time the preference was given is presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in paragraph (5).

(7) The fact that something has been done in pursuance of the order of a court does not, without more, prevent the doing or suffering of that thing from constituting the giving of a preference.

#### 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](#))

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**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Insolvency (Northern Ireland) Order 1989, Section 203 is up to date with all changes known to be in force on or before 11 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)

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**C2** Art. 203 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)

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