
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

[^{F1}PART 1A

Moratorium

CHAPTER 8

Miscellaneous and general

[^{F1}Interpretation of this Part

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

Meaning of “pre-moratorium debt” and “moratorium debt”

13HD.—(1) In this Part “pre-moratorium debt”, in relation to a company for which a moratorium is or has been in force, means—

- (a) any debt or other liability to which the company becomes subject before the moratorium comes into force, or
- (b) any debt or other liability to which the company has become or may become subject during the moratorium by reason of any obligation incurred before the moratorium comes into force,

but this is subject to paragraph (3).

(2) In this Part “moratorium debt”, in relation to a company for which a moratorium is or has been in force, means—

- (a) any debt or other liability to which the company becomes subject during the moratorium, other than by reason of an obligation incurred before the moratorium came into force, or
- (b) any debt or other liability to which the company has become or may become subject after the end of the moratorium by reason of an obligation incurred during the moratorium,

but this is subject to paragraph (3).

(3) For the purposes of this Part—

- (a) a liability in tort is a “pre-moratorium debt” if either—
 - (i) the cause of action has accrued before the moratorium comes into force, or
 - (ii) all the elements necessary to establish the cause of action exist before the moratorium comes into force except for actionable damage;
- (b) a liability in tort is a “moratorium debt” if it does not fall within sub-paragraph (a) and either—
 - (i) the cause of action has accrued during the moratorium, or

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Interpretation of this Part is up to date with all changes known to be in force on or before 14 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

(ii) all the elements necessary to establish the cause of action exist before the moratorium comes to an end except for actionable damage.

(4) Regulations may amend this Article for the purposes of changing the definition of “pre-moratorium debt” and “moratorium debt” in this Part.

(5) Regulations may not be made under paragraph (4) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

Interpretation of this Part: general

13HE.—(1) In this Part—

“company” means—

- (a) a company registered under the Companies Act 2006 in Northern Ireland, or
- (b) an unregistered company that may be wound up under Part 6 of this Order;

“eligible”, in relation to a company, has the meaning given by Schedule ZA1;

“employer”, in relation to a pension scheme—

- (a) in Articles 13BE(2)(c), 13CH(8)(c) and 13EE(8)(c), means an employer within the meaning of Article 2(2) of the Pensions (Northern Ireland) Order 2005;
- (b) elsewhere in this Part, has the same meaning that it has for the purposes of Part 3 of the Pensions (Northern Ireland) Order 2005 (see Article 2(2) and (5) of that Order);

“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement;

“money purchase scheme” has the meaning given by section 176(1) of the Pension Schemes (Northern Ireland) Act 1993;

“the monitor”, in relation to a moratorium, means the person who has the functions of the monitor in relation to the moratorium (see also Article 13EF for cases where two or more persons act as the monitor);

“moratorium” means a moratorium under this Part;

“moratorium debt” has the meaning given by Article 13HD;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“pension scheme” has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“pre-moratorium debt” has the meaning given by Article 13HD;

“qualified person” means a person qualified to act as an insolvency practitioner;

“unable to pay its debts”—

- (a) in relation to a registered company, has the same meaning as in Part 5 (see Article 103);
- (b) in relation to an unregistered company, has the same meaning as in Part 6 (see Articles 186 to 188).

(2) Regulations may amend this Article for the purposes of changing the definition of “qualified person” in paragraph (1).

(3) Regulations may not be made under paragraph (2) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.]

Changes to legislation:

The Insolvency (Northern Ireland) Order 1989, Cross Heading: Interpretation of this Part is up to date with all changes known to be in force on or before 14 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.

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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\(2\)](#)