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*Status: Point in time view as at 18/07/2020.*

*Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Debtor's petition is up to date with all changes known to be in force on or before 05 August 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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## STATUTORY INSTRUMENTS

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# 1989 No. 2405

## The Insolvency (Northern Ireland) Order 1989

### PART IX

#### BANKRUPTCY

##### CHAPTER I

##### BANKRUPTCY PETITIONS; BANKRUPTCY ORDERS

###### *Debtor's petition*

#### **Grounds of debtor's petition**

[<sup>F1</sup>246. A joint debtor's petition in Form 8 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 may be presented to the High Court by individual members only on the grounds that the partnership is unable to pay its debts.]

<b>F1</b> SR 1991/366
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#### **Appointment of insolvency practitioner by the High Court**

247.—(1) Subject to Article 248, on the hearing of a debtor's petition the High Court shall not make a bankruptcy order if it appears to the Court—

- (a) that if a bankruptcy order were made the aggregate amount of the bankruptcy debts, so far as unsecured, would be less than the small bankruptcies level,
- (b) that if a bankruptcy order were made, the value of the bankrupt's estate would be equal to or more than the minimum amount,
- (c) that within the 5 years immediately preceding the presentation of the petition the debtor has neither been adjudged bankrupt nor made a composition with his creditors in satisfaction of his debts or a scheme of arrangement of his affairs, and
- (d) that it would be appropriate to appoint a person to prepare a report under Article 248;

and in this paragraph “the minimum amount” and “the small bankruptcies level” mean such amounts as may for the time being be specified by order under Article 362(1)(b).

(2) Where on the hearing of the petition it appears to the High Court as mentioned in paragraph (1), the Court shall appoint a person who is qualified to act as an insolvency practitioner in relation to the debtor—

- (a) to prepare a report under Article 248, and
- (b) subject to Article 232(3), to act in relation to any voluntary arrangement to which the report relates either as trustee or otherwise for the purpose of supervising its implementation.

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**Action on report of insolvency practitioner**

**248.**—(1) A person appointed under Article 247 shall inquire into the debtor's affairs and, within such period as the High Court may direct, shall submit a report to the Court stating whether the debtor is willing, for the purposes of Part VIII, to make a proposal for a voluntary arrangement.

(2) A report which states that the debtor is willing as is mentioned in paragraph (1) shall also state—

- (a) whether, in the opinion of the person making the report, a meeting of the debtor's creditors should be summoned to consider the proposal, and
- (b) if in that person's opinion such a meeting should be summoned, the date on which, and time and place at which, he proposes the meeting should be held.

(3) On considering a report under this Article the High Court may—

- (a) without any application, make an interim order under Article 226, if it thinks that it is appropriate to do so for the purpose of facilitating the consideration and implementation of the debtor's proposal, or
- (b) if it thinks it would be inappropriate to make such an order, make a bankruptcy order.

(4) An interim order made by virtue of this Article ceases to have effect at the end of such period as the High Court may specify for the purpose of enabling the debtor's proposal to be considered by his creditors in accordance with the applicable provisions of Part VIII.

(5) Where it has been reported to the High Court under this Article that a meeting of the debtor's creditors should be summoned, the person making the report shall, unless the Court otherwise directs, summon that meeting for the time, date and place proposed in his report; and the meeting is then deemed to have been summoned under Article 231, and paragraphs (2) and (3) of that Article, and Articles 232 to 237 apply accordingly.

**[<sup>F2</sup> Debtor who meets conditions for a debt relief order**

**248A.**—(1) This Article applies where, on the hearing of a debtor's petition—

- (a) it appears to the High Court that a debt relief order would be made in relation to the debtor if, instead of presenting the petition, he had made an application under Part 7A; and
- (b) the Court does not appoint an insolvency practitioner under Article 247.

(2) If the High Court thinks it would be in the debtor's interests to apply for a debt relief order instead of proceeding on the petition, the Court may refer the debtor to an approved intermediary (within the meaning of Part 7A) for the purposes of making an application for a debt relief order.

(3) Where a reference is made under paragraph (2) the High Court shall stay proceedings on the petition on such terms and conditions as it thinks fit; but if following the reference a debt relief order is made in relation to the debtor the Court shall dismiss the petition.]

**F2** Art. 248A inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(7); S.R. 2011/13, art. 2

**Summary administration**

**249.** <sup>F3</sup> .....

**F3** Art. 249 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, 31, Sch. 8 para. 4, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

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