
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART IX

BANKRUPTCY

CHAPTER I

BANKRUPTCY PETITIONS; BANKRUPTCY ORDERS

Preliminary

Who may present a bankruptcy petition

238.—(1) A petition for a bankruptcy order (a bankruptcy petition) to be made against an individual may be presented to the High Court in accordance with the following provisions of this Part—

- (a) by one of the individual's creditors or jointly by more than one of them,
- (b) by the individual himself,

[^{F1}(ba) by a temporary administrator (within the meaning of [^{F2}Article 52 of the EU Regulation]),

[^{F3}(bb) by an insolvency practitioner (within the meaning of Article 2(5) of the EU Regulation) appointed in proceedings by virtue of Article 3(1) of the EU Regulation]]

- (c) by the supervisor of, or any person (other than the individual) who is for the time being bound by, a voluntary arrangement proposed by the individual and approved under Part VIII,^{F4} . . .

- (d) ^{F5}

(2) Subject to those provisions, the High Court may make a bankruptcy order on any such petition.

F1 SR 2002/334

F2 Words in art. 238(1)(ba) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, **Sch. para. 111(a)** (with reg. 3)

F3 art. 238(1)(bb) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, **Sch. para. 111(b)** (with reg. 3)

F4 Word before art. 238(1)(d) repealed (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 25, 31, Sch. 8 para. 3, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

F5 Art. 238(1)(d) repealed (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 25, 31, Sch. 8 para. 3, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

Status: Point in time view as at 31/01/2019.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Preliminary 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)

[^{F6}Conditions to be satisfied in respect of debtor

239.—(1) A bankruptcy petition may be presented to the High Court under Article 238(1)(a) or (b) only if—

- (a) the centre of the debtor's main interests is in Northern Ireland,
 - (b) the centre of the debtor's main interests is in a member State of the European Union which has adopted the EU Regulation and the debtor has an establishment in Northern Ireland, or
 - (c) the centre of the debtor's main interests is not in a member State of the European Union which has adopted the EU Regulation, but the test in paragraph (2) is met.
- (2) The test is that—
- (a) the debtor is domiciled in Northern Ireland, or
 - (b) the debtor is personally present in Northern Ireland on the day on which the petition is presented, or
 - (c) at any time in the period of three years ending with the day on which the petition is presented, the debtor—
 - (i) has been ordinarily resident, or has had a place of residence, in Northern Ireland, or
 - (ii) has carried on business in Northern Ireland.
- (3) The reference in paragraph (2) to the debtor carrying on business includes—
- (a) the carrying on of business by a firm or partnership of which the debtor is a member, and
 - (b) the carrying on of business by an agent or manager for the debtor or for such a firm or partnership.
- (4) In this Article—
- (a) references to the centre of the debtor's main interests have the same meaning as in Article 3 of the EU Regulation, and
 - (b) “establishment” has the same meaning as in Article 2(10) of the EU Regulation.]

F6 Art. 239 substituted (31.1.2019) by [The Insolvency \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/146\)](#), reg. 1(2), [Sch. para. 177](#) (with regs. 4, 5)

Other preliminary conditions

240.—(1) Where a bankruptcy petition relating to an individual is presented by a person who is entitled to present a petition under 2 or more sub#paragraphs of Article 238(1), the petition is to be treated for the purposes of this Part as a petition under such one of those sub#paragraphs as may be specified in the petition.

(2) A bankruptcy petition shall not be withdrawn without the leave of the High Court.

(3) The High Court may, if it appears to it appropriate to do so on the grounds that there has been a contravention of the rules or for any other reason, dismiss a bankruptcy petition or stay proceedings on such a petition; and, where it stays proceedings on a petition, it may do so on such terms and conditions as it thinks fit.

Status:

Point in time view as at 31/01/2019.

Changes to legislation:

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