

---

STATUTORY INSTRUMENTS

---

**1989 No. 2405**

**The Insolvency (Northern Ireland) Order 1989**

**PART IX**

**BANKRUPTCY**

**CHAPTER VII**

**POWERS OF HIGH COURT IN BANKRUPTCY**

**General control of High Court**

**334.**—(1) Every bankruptcy is under the general control of the High Court and, subject to the provisions in Parts VIII to X, the Court has full power to decide all questions of priorities and all other questions, whether of law or fact, arising in any bankruptcy.

(2) Without prejudice to any other provision in Parts VIII to X, an undischarged bankrupt or a discharged bankrupt whose estate is still being administered under Chapter IV shall do all such things as he may be directed to do by the High Court for the purposes of his bankruptcy or, as the case may be, the administration of that estate.

(3) The official receiver or the trustee of a bankrupt's estate may at any time apply to the High Court for a direction under paragraph (2).

(4) If any person without reasonable excuse fails to comply with any obligation imposed on him by paragraph (2), he is guilty of a contempt of court and liable to be punished accordingly (in addition to any other punishment to which he may be subject).

**Power of arrest**

**335.**—(1) In the cases specified in paragraph (2) the High Court may cause a warrant to be issued to a constable—

- (a) for the arrest of a debtor to whom a bankruptcy petition relates or of an undischarged bankrupt, or of a discharged bankrupt whose estate is still being administered under Chapter IV, and
- (b) for the seizure of any books, papers, records, money or goods in the possession of a person arrested under the warrant,

and may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until such time as the Court may order.

(2) The powers conferred by paragraph (1) are exercisable in relation to a debtor or undischarged or discharged bankrupt if, at any time after the presentation of the bankruptcy petition relating to him or the making of the bankruptcy order against him, it appears to the High Court—

- (a) that there are reasonable grounds for believing that he has absconded, or is about to abscond, with a view to avoiding or delaying the payment of any of his debts or his appearance to a bankruptcy petition or to avoiding, delaying or disrupting any proceedings in bankruptcy against him or any examination of his affairs, or

*Status: Point in time view as at 18/11/2015.*

*Changes to legislation: The Insolvency (Northern Ireland) Order 1989, CHAPTER VII is up to date with all changes known to be in force on or before 15 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)*

- (b) that he is about to remove his goods with a view to preventing or delaying possession being taken of them by the official receiver or the trustee of his estate, or
- (c) that there are reasonable grounds for believing that he has concealed or destroyed, or is about to conceal or destroy, any of his goods or any books, papers or records which might be of use to his creditors in the course of his bankruptcy or in connection with the administration of his estate, or
- (d) that he has, without the leave of the official receiver or the trustee of his estate, removed any goods in his possession which exceed in value such amount specified in an order under Article 362(1)(b) for the purposes of this sub#paragraph, or
- (e) that he has failed, without reasonable excuse, to attend any examination ordered by the Court.

### **Seizure of bankrupt's property**

**336.**—(1) At any time after a bankruptcy order has been made, the High Court may, on the application of the official receiver or the trustee of the bankrupt's estate, issue a warrant authorising the person to whom it is directed to seize any property comprised in the bankrupt's estate which is, or any books, papers or records relating to the bankrupt's estate or affairs which are, in the possession or under the control of the bankrupt or any other person who is required to deliver the property, books, papers or records to the official receiver or trustee.

(2) Any person executing a warrant under this Article may, for the purpose of seizing any property comprised in the bankrupt's estate or any books, papers or records relating to the bankrupt's estate or affairs, break open any premises where the bankrupt or anything that may be seized under the warrant is or is believed to be and any receptacle of the bankrupt which contains or is believed to contain anything that may be so seized.

(3) If, after a bankruptcy order has been made, the High Court is satisfied that any property comprised in the bankrupt's estate is, or any books, papers or records relating to the bankrupt's estate or affairs are, concealed in any premises not belonging to him, it may issue a warrant authorising any constable to search those premises for the property, books, papers or records.

(4) A warrant under paragraph (3) shall not be executed except in the prescribed manner and in accordance with its terms.

### **Inquiry into bankrupt's dealings and property**

**337.**—(1) At any time after a bankruptcy order has been made the High Court may, on the application of the official receiver or the trustee of the bankrupt's estate, summon to appear before it—

- (a) the bankrupt or the bankrupt's spouse or former spouse<sup>[F1]</sup> or civil partner or former civil partner],
- (b) any person known or believed to have any property comprised in the bankrupt's estate in his possession or to be indebted to the bankrupt,
- (c) any person appearing to the Court to be able to give information concerning the bankrupt or the bankrupt's dealings, affairs or property.

(2) The High Court may require any person such as is mentioned in paragraph (1)(b) or (c) to submit an affidavit to the Court containing an account of his dealings with the bankrupt or to produce any documents in his possession or under his control relating to the bankrupt or the bankrupt's dealings, affairs or property.

(3) Without prejudice to Article 335, paragraphs (4) and (5) apply in a case where—

- (a) a person without reasonable excuse fails to appear before the High Court when he is summoned to do so under this Article, or
  - (b) there are reasonable grounds for believing that a person has absconded, or is about to abscond, with a view to avoiding his appearance before the Court under this Article.
- (4) The High Court may, for the purpose of bringing that person and anything in his possession before the Court, cause a warrant to be issued to a constable—
- (a) for the arrest of that person, and
  - (b) for the seizure of any books, papers, records, money or goods in that person's possession.
- (5) The High Court may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until that person is brought before the Court under the warrant or until such other time as the Court may order.

F1 2004 c. 33

### High Court's enforcement powers under Article 337

**338.**—(1) If it appears to the High Court, on consideration of any evidence obtained under Article 337 or this Article, that any person has in his possession any property comprised in the bankrupt's estate, the Court may, on the application of the official receiver or the trustee of the bankrupt's estate, order that person to deliver the whole or any part of the property to the official receiver or the trustee at such time, in such manner and on such terms as the Court thinks fit.

(2) If it appears to the High Court, on consideration of any evidence obtained under Article 337 or this Article, that any person is indebted to the bankrupt, the Court may, on the application of the official receiver or the trustee of the bankrupt's estate, order that person to pay to the official receiver or trustee, at such time and in such manner as the Court may direct, the whole or part of the amount due, whether in full discharge of the debt or otherwise as the Court thinks fit.

(3) The High Court may, if it thinks fit, order that any person liable to be summoned to appear before it under Article 337 or this Article shall be examined on oath, either orally or by interrogatories, concerning the bankrupt or the bankrupt's dealings, affairs and property.

### Provision corresponding to Article 337, where interim receiver appointed

**339.** Articles 337 and 338 apply where an interim receiver has been appointed under Article 259 as they apply where a bankruptcy order has been made, as if—

- (a) references to the official receiver or the trustee were to the interim receiver, and
- (b) references to the bankrupt and to his estate were (respectively) to the debtor and his property.

### Order for production of documents by Inland Revenue

**340.**—(1) For the purposes of an examination under Article 263 (public examination of bankrupt) or proceedings under Articles 337 to 339, the High Court may, on the application of the official receiver or the trustee of the bankrupt's estate, order an inland revenue official to produce to the Court—

- (a) any return, account or accounts submitted (whether before or after the commencement of the bankruptcy) by the bankrupt to any inland revenue official,
- (b) any assessment or determination made (whether before or after the commencement of the bankruptcy) in relation to the bankrupt by any inland revenue official, or

*Status: Point in time view as at 18/11/2015.*

*Changes to legislation: The Insolvency (Northern Ireland) Order 1989, CHAPTER VII is up to date with all changes known to be in force on or before 15 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)*

- (c) any correspondence (whether before or after the commencement of the bankruptcy) between the bankrupt and any inland revenue official.
- (2) Where the High Court has made an order under paragraph (1) for the purposes of any examination or proceedings, the Court may, at any time after the document to which the order relates is produced to it, by order authorise the disclosure of the document, or of any part of its contents, to the official receiver, the trustee of the bankrupt's estate or the bankrupt's creditors.
- (3) The High Court shall not address an order under paragraph (1) to an inland revenue official unless it is satisfied that that office is dealing, or has dealt, with the affairs of the bankrupt.
- (4) Where any document to which an order under paragraph (1) relates is not in the possession of the official to whom the order is addressed, it is the duty of that official to take all reasonable steps to secure possession of it and, if he fails to do so, to report the reasons for his failure to the High Court.
- (5) Where any document to which an order under paragraph (1) relates is in the possession of an inland revenue official other than the one to whom the order is addressed, it is the duty of the official in possession of the document, at the request of the official to whom the order is addressed, to deliver it to the official making the request.
- (6) In this Article “inland revenue official” means any inspector or collector of taxes appointed by the Commissioners of Inland Revenue or any person appointed by the Commissioners to serve in any other capacity.
- (7) This Article does not apply for the purposes of an examination under Articles 337 and 338 which takes place by virtue of Article 339 (interim receiver).

### **Power to appoint special manager**

- 341.**—(1) The High Court may, on an application under this Article, appoint any person to be the special manager—
- (a) of a bankrupt's estate, or
  - (b) of the business of an undischarged bankrupt, or
  - (c) of the property or business of a debtor in whose case the official receiver has been appointed interim receiver under Article 259.
- (2) An application under this Article may be made by the official receiver or the trustee of the bankrupt's estate in any case where it appears to the official receiver or trustee that the nature of the estate, property or business, or the interests of the creditors generally, require the appointment of another person to manage the estate, property or business.
- (3) A special manager appointed under this Article has such powers as may be entrusted to him by the High Court.
- (4) The power of the High Court under paragraph (3) to entrust powers to a special manager includes power to direct that any provision in Parts VIII to X that has effect in relation to the official receiver, interim receiver or trustee shall have the like effect in relation to the special manager for the purposes of the carrying out by the special manager of any of the functions of the official receiver, interim receiver or trustee.
- (5) A special manager appointed under this Article shall—
- (a) give such security as may be prescribed,
  - (b) prepare and keep such accounts as may be prescribed, and
  - (c) produce those accounts in accordance with the rules to the Department or to such other persons as may be prescribed.

### **Re#direction of bankrupt's letters, etc.**

**342.**—(1) Where a bankruptcy order has been made, the High Court may, on the application of the official receiver or the trustee of the bankrupt's estate, order<sup>[F2]</sup> a postal operator (within the meaning <sup>[F3]</sup>of Part 3 of the Postal Services Act 2011)] to re#direct and send or deliver to the official receiver or trustee or otherwise any postal packet (within the meaning of<sup>[F4]</sup> Part 3 of the Postal Services Act 2011) which would otherwise be sent or delivered by them to the bankrupt at such place or places as may be specified in the order.

(2) An order under this Article has effect for such period, not exceeding 3 months, as may be specified in the order.

**F2** SI 2001/1149

**F3** Words in art. 342(1) substituted (1.10.2011) by [Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 5(1), **Sch. 1 para. 23(2)(a)**

**F4** Words in art. 342(1) substituted (1.10.2011) by [Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 5(1), **Sch. 1 para. 23(2)(b)**

**Status:**

Point in time view as at 18/11/2015.

**Changes to legislation:**

The Insolvency (Northern Ireland) Order 1989, CHAPTER VII is up to date with all changes known to be in force on or before 15 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.