

STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART V

WINDING UP OF COMPANIES REGISTERED
UNDER [^{F1}the Companies Act 2006]

CHAPTER VIII

PROVISIONS OF GENERAL APPLICATION IN WINDING UP

Preferential debts

Preferential debts (general provision)

149.—(1) In a winding up the company's preferential debts ^{F1}... shall be paid in priority to all other debts [^{F2}after the payment of—

- (a) any liabilities to which Article 148A applies, and
- (b) expenses of the winding up.]

[^{F3}(1A) Ordinary preferential debts rank equally among themselves ^{F4}... and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.

(1B) Secondary preferential debts rank equally among themselves after the ordinary preferential debts and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.]

(2) Preferential debts—

^{F5}(a)

- (b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures secured by, or holders of, any floating charge created by the company, and shall be paid accordingly out of any property comprised in or subject to that charge.

[^{F6}(3) In this Article “preferential debts”, “ordinary preferential debts” and “secondary preferential debts” each has the meaning given in Article 346.]

- | | |
|-----------|--|
| F1 | Words in art. 149(1) omitted (1.1.2015) by virtue of The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486) , arts. 1(2), 17(2) (with art. 3) |
| F2 | Art. 149(1)(a)(b) and words inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12) , s. 49(1), Sch. 7 para. 18(2) (with ss. 2(2), 5(2)) |
| F3 | Art. 149(1A)(1B) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486) , arts. 1(2), 17(3) (with art. 3) |
| F4 | Words in art. 149(1A) omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12) , s. 49(1), Sch. 7 para. 18(3) (with ss. 2(2), 5(2)) |

Status: Point in time view as at 28/12/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Preferential debts is up to date with all changes known to be in force on or before 07 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)

- F5** Art. 149(2)(a) and word omitted (1.1.2015) by virtue of The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **17(4)** (with art. 3)
- F6** Art. 149(3) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **17(5)** (with art. 3)

Modifications etc. (not altering text)

- C1** Art. 149 applied by Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979), reg. 14(5)(a)(i) (as substituted (1.10.2009) by Financial Markets and Insolvency (Settlement Finality) (Amendment) Regulations 2009 (S.I. 2009/1972), reg. **4(d)(ii)**)
- C2** Art. 149 applied (with modifications) by S.R. 1995/225, Sch. 4 para. 23 (as amended (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **37** (with art. 3))
- C3** Art. 149 modified by S.R. 1995/225, Sch. 4 para. 23 (as modified (28.12.2020 until IP completion day when the amending provision ceases to have effect in accordance with reg. 1(4) of the amending S.I.) by The Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1350), regs. 1(4), **122(4)** (with reg. 108))
- C4** Art. 149 excluded (06.03.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), reg. 1(1), **Sch. para. 9(2)(c)**

Preferential charge on goods distrained [^{F7}, etc]

150.—(1) This Article applies where a company is being wound up by the High Court, and is without prejudice to Article 108 (avoidance of sequestration or distress).

[^{F8}(2) Paragraph (2A) applies where—

- (a) any person has distrained upon the goods or effects of the company, or
- (b) Her Majesty's Revenue and Customs has been paid any amount from an account of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts),

within the 3 months immediately preceding the date of the winding-up order.

(2A) Where this paragraph applies—

- (a) in a case within paragraph (2)(a), the goods or effects, or the proceeds of their sale, and
- (b) in a case within paragraph (2)(b), the amount in question,

is charged for the benefit of the company with the preferential debts of the company to the extent that the company's property is for the time being insufficient for meeting those debts.]

(3) Where by virtue of a charge under paragraph [^{F9}(2A)] any person surrenders any goods or effects to a company or makes a payment to a company, that person ranks, in respect of the amount of the proceeds of sale of those goods or effects by the liquidator or (as the case may be) the amount of the payment, as a preferential creditor of the company, except as against so much of the company's property as is available for the payment of preferential creditors by virtue of the surrender or payment.

- F7** Word in art. 150 heading inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 8 para. 38(4)**
- F8** Art. 150(2)(2A) substituted for art. 150(2) (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 8 para. 38(2)**
- F9** Word in art. 150(3) substituted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 8 para. 38(3)**

Status:

Point in time view as at 28/12/2020.

Changes to legislation:

The Insolvency (Northern Ireland) Order 1989, Cross Heading: Preferential debts is up to date with all changes known to be in force on or before 07 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.