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## STATUTORY INSTRUMENTS

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# 1989 No. 2405

## The Insolvency (Northern Ireland) Order 1989

### PART XIII **N.I.**

#### PUBLIC ADMINISTRATION

##### *Insolvency rules*

#### **Insolvency rules** **N.I.**

<sup>F1F2F3</sup>**359.**—(1) The [<sup>F4</sup>Department of Justice] may, with the concurrence of the Department and after consultation with the committee appointed under Article 360, make rules for the purpose of giving effect to this Order [<sup>F5</sup> or the [<sup>F6</sup>EU Regulation]].

[<sup>F7</sup>(1A) Rules that affect court procedure may be made under paragraph (1) only with the concurrence of the Lord Chief Justice.

(1B) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (1A)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

(2) Without prejudice to the generality of paragraph (1), or to any provision of this Order by virtue of which rules under this Article may be made with respect to any matter, rules under this Article may contain—

- (a) any such provision as is specified in Schedule 5 or corresponds to provision contained immediately before the coming into operation of this Order in rules made, or having effect as if made under Article 613(1) and (2) of [<sup>F8</sup>the Companies (Northern Ireland) Order 1986] (old winding#up rules), and
- (b) <sup>F9</sup> any such provision as is specified in Schedule 6 or corresponds to provision contained immediately before the coming into operation of this Order in rules made under Article 33(1) and (2) of the Bankruptcy Amendment (Northern Ireland) Order 1980<sup>F10</sup> (old bankruptcy rules), and
- (c) provision for enabling the Master (Bankruptcy) to exercise such of the jurisdiction conferred for the purposes of this Order on the High Court as may be prescribed and for enabling the review of any such jurisdiction, and
- (d) such incidental, supplemental and transitional provision as may appear to the [<sup>F11</sup>Department of Justice] or, as the case may be, the Department necessary or expedient.

[<sup>F5</sup>(2A) <sup>F9</sup> For the purposes of paragraph (2), a reference in Schedule 5 or Schedule 6 to doing anything under or for the purposes of a provision of this Order includes a reference to doing anything

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under or for the purposes of the [F12EU Regulation] (in so far as the provision of this Order relates to a matter to which the [F12EU Regulation] applies).

(2B) Rules under this Article for the purpose of giving effect to the [F13EU Regulation] may not create [F14a new relevant offence (see Article 366A)].

(3) In Schedule 5 “liquidator” includes a provisional liquidator; and references in this Article to this Order are to be read as including [F15the Companies Acts] so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies.

(4) Rules under this Article shall be subject to [F16 negative resolution].

(5) Regulations made by the Department under a power conferred by rules under this Article shall be subject to affirmative resolution.

(6) Nothing in this Article prejudices any power to make rules of court.]]]

- F1** By [Banking Act 2009 \(c. 1\)](#), **ss. 125, 134, 263(1)** (with s. 247); S.I. 2009/296, arts. 2, 3, **Sch.** it is provided that art. 359 is amended (17.2.2009 for certain purposes, otherwise 21.2.2009) (art. 359 being the equivalent enactment having effect in relation to Northern Ireland to s. 411 of the [Insolvency Act 1986 \(c. 45\)](#))
- F2** By [Banking Act 2009 \(c. 1\)](#), **ss. 160, 167, 263(1)** (with s. 247); S.I. 2009/296, arts. 2, 3, **Sch.** it is provided that art. 359 is amended (17.2.2009 for certain purposes, otherwise 21.2.2009) (art. 359 being the equivalent enactment having effect in relation to Northern Ireland to s. 411 of the [Insolvency Act 1986 \(c. 45\)](#))
- F3** By [Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), arts. 13, **17** it is provided that art. 359 is amended (29.3.2009) (art. 359 being the equivalent enactment having effect in relation to Northern Ireland to s. 411 of the [Insolvency Act 1986 \(c. 45\)](#))
- F4** Words in art. 359(1) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 142(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F5** SR 2002/223
- F6** Words in art. 359(1) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, **Sch. para. 115** (with reg. 3)
- F7** Art. 359(1A)(1B) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), Sch. 5 para. 81; S.I. 2006/1014, **art. 2(a)**, Sch. 1
- F8** Words in art. 359(2)(a) substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 2(1), 8, **Sch. 1 para. 113** (with art. 10)
- F9** mod. by SR 2004/307
- F10** 1980 NI 4
- F11** Words in art. 359(2)(d) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 142(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F12** Words in art. 359(2A) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, **Sch. para. 115** (with reg. 3)
- F13** Words in art. 359(2B) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, **Sch. para. 115** (with reg. 3)
- F14** Words in art. 359(2B) substituted (31.12.2020) by [The Insolvency \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/146\)](#), reg. 1(3), **Sch. para. 181** (with regs. 4, 5); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in art. 359(3) substituted (1.10.2007) by [Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), arts. 1(3)(a), 10(1), **Sch. 4 para. 62** (with art. 12)

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**F16** Words in art. 359(4) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 142(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Modifications etc. (not altering text)**

- C1** Art. 359 applied in part (1.10.2007) by Companies Act 2006 (c. 46), **ss. 997**, 1300(2); S.I. 2007/2194, **art. 2(1)(j)** (with art. 12)
- C2** Art. 359 any relevant function transferred from Lord Chancellor to Department of Justice and any relevant function transferred from the Treasury to Department of Finance and Personnel (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 146** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- C3** Art. 359 applied (with modifications) (21.3.2011) by Energy Act (Northern Ireland) 2011 (c. 6), **ss. 22(3)**, 36(1); S.R. 2011/95, **art. 2(1)**
- C4** Art. 359 applied (with modifications) (1.10.2011) by Postal Services Act 2011 (c. 5), **ss. 73(3)(4)**, 87(1)(2); S.I. 2011/2329, **art. 3(1)**
- C5** Art. 359 extended (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), Sch. 8 paras. 3, 4 (with ss. 2(2), 5(2), Sch. 8 para. 1)
- C6** Art. 359 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)

**Committee to review rules under Article 359** **N.I.**

**360.**—(1) There shall<sup>[F17]</sup> be a committee appointed by the Lord Chief Justice] to keep under review rules for the time being in force under Article 359 and to make recommendations to the <sup>[F18]</sup>Department of Justice] as to any changes in the rules that may appear to the committee to be desirable.

(2) The committee shall consist of—

- (a) the Chancery Judge;
- (b) the Master (Bankruptcy);
- (c) a practising barrister<sup>#at#</sup>law;
- (d) a practising solicitor of the Supreme Court;
- (e) a practising accountant; and
- (f) such additional persons, if any, as appear to the<sup>[F19]</sup> Lord Chief Justice] to have qualifications or experience that would be of value to the committee in considering any matter with which it is concerned.

<sup>[F20]</sup>(3) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

**F17** Words in art. 360(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 82(2); S.I. 2006/1014, **art. 2(a)**, Sch. 1

**F18** Words in art. 360(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 143** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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- F19** Words in art. 360(2)(f) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 82(3); S.I. 2006/1014, **art. 2(a)**, Sch. 1
- F20** Art. 360(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 82(4); S.I. 2006/1014, **art. 2(a)**, Sch. 1

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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\(2\)](#)