

SCHEDULES

[^{F1}SCHEDULE ZA1

Article 13AA

MORATORIUM: ELIGIBLE COMPANIES

F1 Sch. ZA1 inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 5** (with ss. 2(2), 5(2), 13)

Modifications etc. (not altering text)

C1 Sch. ZA1 modified (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 8 para. 6(1)(c)** (with ss. 2(2), 5(2), Sch. 8 para. 1)

C2 Sch. ZA1 modified (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 8 para. 7(b)** (with ss. 2(2), 5(2), Sch. 8 para. 1)

Eligible companies

1 A company is “eligible” for the purposes of this Part unless it is excluded from being eligible by any of the following—

- paragraph 2 (current or recent insolvency procedure);
- paragraph 3 (insurance companies);
- paragraph 4 (banks);
- paragraph 5 (electronic money institutions);
- paragraph 6 (investment banks and investment firms);
- paragraph 7 (market contracts, market charges, etc);
- paragraph 8 (participants in designated systems);
- paragraph 9 (payment institutions);
- paragraph 10 (operators of payment systems, infrastructure providers etc);
- paragraph 11 (recognised investment exchanges, clearing houses and CSDs);
- paragraph 12 (securitisation companies);
- paragraph 13 (parties to capital market arrangements);
- paragraph 15 (public-private partnership project companies);
- paragraph 18 (certain overseas companies).

Companies subject to, or recently subject to, moratorium or an insolvency procedure

2.—(1) A company is excluded from being eligible if—

- (a) on the filing date, a moratorium for the company is in force, or
- (b) at any time during the period of 12 months ending with the filing date, a moratorium for the company was in force (but see Article 13F(6) for power of the High Court to modify the effect of this paragraph).

Status: Point in time view as at 26/06/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 23 June 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)

- (2) A company is excluded from being eligible if—
 - (a) on the filing date, the company is subject to an insolvency procedure, or
 - (b) at any time during the period of 12 months ending with the filing date, the company was subject to an insolvency procedure within sub-paragraph (3)(a) or (b).
- (3) For the purposes of sub-paragraph (2), a company is subject to an insolvency procedure at any time if at that time—
 - (a) a voluntary arrangement has effect in relation to the company,
 - (b) the company is in administration,
 - (c) paragraph 45 of Schedule B1 applies in relation to the company (administration: interim moratorium),
 - (d) there is an administrative receiver of the company,
 - (e) there is a provisional liquidator of the company,
 - (f) the company is being wound up, or
 - (g) a relevant petition for the winding up of the company has been presented and has not been withdrawn or determined.
- (4) In sub-paragraph (3)(g) “relevant petition” means a petition under—
 - (a) Article 104A (winding up on grounds of public interest),
 - (b) Article 104B (winding up of SE), or
 - (c) Article 104C (winding up of SCE).

Insurance companies

- 3.—(1) A company is excluded from being eligible if—
 - (a) it carries on the regulated activity of effecting or carrying out contracts of insurance, and
 - (b) it is not an exempt person in relation to that activity.
- (2) In this paragraph—

“exempt person”, in relation to a regulated activity, has the meaning given by section 417 of the Financial Services and Markets Act 2000;

“regulated activity” has the meaning given by section 22 of that Act, taken with Schedule 2 to that Act and any order under that section.

Banks

- 4.—(1) A company is excluded from being eligible if—
 - (a) it has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of accepting deposits,
 - (b) it is a banking group company within the meaning of Part 1 of the Banking Act 2009 (see section 81D of that Act), or
 - (c) it has a liability in respect of a deposit which it accepted in accordance with the Banking Act 1979 or the Banking Act 1987.
- (2) In sub-paragraph (1)(a) “regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000, taken with Schedule 2 to that Act and any order under that section.

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Electronic money institutions

5 A company is excluded from being eligible if it is an electronic money institution within the meaning of the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2 of those Regulations).

Investment banks and investment firms

6.—(1) A company is excluded from being eligible if it is an investment bank or an investment firm.

(2) In this paragraph—

“investment bank” means a company that has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of—

- (a) safeguarding and administering investments,
- (b) managing an AIF or a UCITS,
- (c) acting as trustee or depositary of an AIF or a UCITS,
- (d) dealing in investments as principal, or
- (e) dealing in investments as agent,

but does not include a company that has permission to arrange for one or more others to carry on the activity mentioned in paragraph (a) if it does not otherwise have permission to carry on any of the activities mentioned in paragraphs (a) to (e);

“investment firm” has the same meaning as in the Banking Act 2009 (see section 258A of that Act), disregarding any order made under section 258A(2)(b) of that Act;

“regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000, taken with Schedule 2 to that Act and any order under that section.

Companies that are party to market contracts or subject to market charges, etc

7.—(1) A company is excluded from being eligible if it is a party to a market contract for the purposes of Part 5 of the Companies (No. 2) (Northern Ireland) Order 1990 (see Article 80 of that Order).

(2) A company is excluded from being eligible if any of its property is subject to a market charge for the purposes of Part 5 of the Companies (No. 2) (Northern Ireland) Order 1990 (see Article 95 of that Order).

(3) A company is excluded from being eligible if any of its property is subject to a charge that is a system-charge, within the meaning of the Financial Markets and Insolvency Regulations (Northern Ireland) 1996 (S.R. (N.I.) 1996/252) (see regulation 2 of those Regulations).

Participants in designated systems

8 A company is excluded from being eligible if—

- (a) it is a participant in a designated system, within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979) (see regulation 2 of those Regulations), or
- (b) any of its property is subject to a collateral security charge within the meaning of those Regulations (see regulation 2 of those Regulations).

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Payment institutions

9 A company is excluded from being eligible if it is an authorised payment institution, a small payment institution or a registered account information service provider within the meaning of the Payment Services Regulations 2017 (S.I. 2017/752) (see regulation 2 of those Regulations).

Operators of payment systems, infrastructure providers etc

10 A company is excluded from being eligible if—

- (a) it is the operator of a payment system or an infrastructure provider within the meaning of Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 42 of that Act), or
- (b) it is an infrastructure company, within the meaning of Part 6 of that Act (see section 112 of that Act).

Recognised investment exchanges, clearing houses and CSDs

11 A company is excluded from being eligible if it is a recognised investment exchange, a recognised clearing house or a recognised CSD within the meaning of the Financial Services and Markets Act 2000 (see section 285 of that Act).

Securitisation companies

12 A company is excluded from being eligible if it is a securitisation company within the meaning of the Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296) (see regulation 4 of those Regulations).

Parties to capital market arrangement

13.—(1) A company is excluded from being eligible if, on the filing date—

- (a) it is a party to an agreement which is or forms part of a capital market arrangement (see sub-paragraph (2)),
- (b) a party has incurred, or when the agreement was entered into was expected to incur, a debt of at least £10 million under the arrangement (at any time during the life of the capital market arrangement), and
- (c) the arrangement involves the issue of a capital market investment (see paragraph 14).

(2) For the purposes of this paragraph, an arrangement is a “capital market arrangement” if any of the following applies—

- (a) it involves a grant of security to a person holding it as trustee for a person who holds a capital market investment issued by a party to the arrangement;
- (b) at least one party guarantees the performance of obligations of another party;
- (c) at least one party provides security in respect of the performance of obligations of another party;
- (d) the arrangement involves an investment of a kind described in articles 83 to 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (options, futures and contracts for differences).

(3) For the purposes of sub-paragraph (2)—

- (a) a reference to holding a security as trustee includes a reference to holding it as nominee or agent,

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- (b) a reference to holding for a person who holds a capital market investment includes a reference to holding for a number of persons at least one of whom holds a capital market investment, and
 - (c) a reference to holding a capital market investment is to holding a legal or beneficial interest in it.
- (4) For the purposes of sub-paragraph (1)(b), where a debt is denominated wholly or partly in a foreign currency, the sterling equivalent is to be calculated as at the time when the arrangement is entered into.

14.—(1) For the purposes of paragraph 13 an investment is a “capital market investment” if condition A or B is met.

(2) Condition A is that the investment—

- (a) is within article 77 or 77A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (debt instruments), and
- (b) is rated, listed or traded or designed to be rated, listed or traded.

(3) In sub-paragraph (2)—

“listed” means admitted to the official list within the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (interpretation);

“rated” means rated for the purposes of investment by an internationally recognised rating agency;

“traded” means admitted to trading on a market established under the rules of a recognised investment exchange or on a foreign market.

(4) In sub-paragraph (3)—

“foreign market” has the same meaning as “relevant market” in article 67(2) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (S.I. 2005/1529) (foreign markets);

“recognised investment exchange” has the meaning given by section 285 of the Financial Services and Markets Act 2000 (recognised investment exchange).

(5) Condition B is that the investment consists of a bond or commercial paper issued to one or more of the following—

- (a) an investment professional within the meaning of article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (S.I. 2005/1529);
- (b) a person who, when the agreement mentioned in paragraph 13(1) is entered into, is a certified high net worth individual in relation to a communication within the meaning of article 48(2) of that Order;
- (c) a person to whom article 49(2) of that Order applies (high net worth company, etc);
- (d) a person who, when the agreement mentioned in paragraph 13(1) is entered into, is a certified sophisticated investor in relation to a communication within the meaning of article 50(1) of that Order;
- (e) a person in a State other than the United Kingdom who under the law of that State is not prohibited from investing in bonds or commercial paper.

(6) For the purposes of sub-paragraph (5)—

- (a) in applying article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005—
 - (i) in article 19(5)(b), ignore the words after “exempt person”,

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- (ii) in article 19(5)(c)(i), for the words from “the controlled activity” to the end substitute “ a controlled activity ”, and
- (iii) in article 19(5)(e), ignore the words from “where the communication” to the end;
- (b) in applying article 49(2) of that Order, ignore article 49(2)(e);
- (c) “bond” means—
 - (i) a bond that is within article 77(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or
 - (ii) an alternative finance investment bond within the meaning of article 77A of that Order;
- (d) “commercial paper” has the meaning given by article 9(3) of that Order.

Public-private partnership project companies

15.—(1) A company is excluded from being eligible if, on the filing date, it is a project company of a project which—

- (a) is a public-private partnership project (see paragraph 16), and
- (b) includes step-in rights (see paragraph 17).

(2) For the purposes of this paragraph a company is a “project company” of a project if any of the following applies—

- (a) it holds property for the purpose of the project;
- (b) it has sole or principal responsibility under an agreement for carrying out all or part of the project;
- (c) it is one of a number of companies which together carry out the project;
- (d) it has the purpose of supplying finance to enable the project to be carried out;
- (e) it is the holding company of a company within any of paragraphs (a) to (d).

(3) But a company is not a “project company” of a project if—

- (a) it performs a function within sub-paragraph (2)(a) to (d) or is within sub-paragraph (2)(e), but
- (b) it also performs a function which is not—
 - (i) within sub-paragraph (2)(a) to (d),
 - (ii) related to a function within sub-paragraph (2)(a) to (d), or
 - (iii) related to the project.

(4) For the purposes of this paragraph a company carries out all or part of a project whether or not it acts wholly or partly through agents.

16.—(1) For the purposes of paragraph 15 “public-private partnership project” means a project—

- (a) the resources for which are provided partly by one or more public bodies and partly by one or more private persons, or
- (b) which is designed wholly or mainly for the purpose of assisting a public body to discharge a function.

(2) In sub-paragraph (1) “public body” means—

- (a) a body which exercises public functions,
- (b) a body specified for the purposes of this paragraph by the Department, or

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- (c) a body within a class specified for the purposes of this paragraph by the Department.
- (3) In sub-paragraph (1)(a) “resources” includes—
 - (a) funds (including payment for the provision of services or facilities);
 - (b) assets;
 - (c) professional skill;
 - (d) the grant of a concession or franchise;
 - (e) any other commercial resource.
- (4) A specification under sub-paragraph (2) may be—
 - (a) general, or
 - (b) for the purpose of the application of paragraph 15 to a specified case.

17.—(1) For the purposes of paragraph 15 a project has “step-in rights” if a person who provides finance in connection with the project has a conditional entitlement under an agreement to—

- (a) assume sole or principal responsibility under an agreement for carrying out all or part of the project, or
- (b) make arrangements for carrying out all or part of the project.

(2) In sub-paragraph (1) a reference to the provision of finance includes a reference to the provision of an indemnity.

Overseas companies with corresponding functions

18 A company is excluded from being eligible if its registered office or head office is outside the United Kingdom and—

- (a) its functions correspond to those of a company mentioned in any of the previous paragraphs of this Schedule apart from paragraph 2 and, if it were a company registered under the Companies Act 2006 in Northern Ireland, it would be excluded from being eligible by that paragraph, or
- (b) it has entered into a transaction or done anything else that, if done in Northern Ireland by a company registered under the Companies Act 2006 in Northern Ireland, would result in the company being excluded by any of the previous paragraphs of this Schedule apart from paragraph 2.

Interpretation of Schedule

19.—(1) This paragraph applies for the purposes of this Schedule.

(2) “Agreement” includes any agreement or undertaking effected by—

- (a) contract,
- (b) deed, or
- (c) any other instrument intended to have effect in accordance with the law of Northern Ireland or another jurisdiction.

(3) “The filing date” means the date on which documents are filed with the High Court under Article 13B, 13BA or 13BB.

(4) “Party” to an arrangement includes a party to an agreement which—

- (a) forms part of the arrangement,
- (b) provides for the raising of finance as part of the arrangement, or

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(c) is necessary for the purposes of implementing the arrangement.

Power to amend Schedule

20.—(1) Regulations may amend this Schedule, apart from paragraph 2, so as to alter the circumstances in which a company is “eligible” for the purposes of this Part.

(2) Regulations may not be made under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.]

[^{F2}SCHEDULE ZA2

Article 13D

MORATORIUM: CONTRACT OR OTHER INSTRUMENT INVOLVING FINANCIAL SERVICES

F2 Sch. ZA2 inserted (26.6.2020) by *Corporate Insolvency and Governance Act 2020 (c. 12)*, s. 49(1), **Sch. 6** (with ss. 2(2), 5(2))

Introductory

1 For the purposes of Article 13D “contract or other instrument involving financial services” means a contract or other instrument to which any of the following paragraphs applies.

Financial contracts

2.—(1) This paragraph applies to a financial contract.

(2) “Financial contract” means—

- (a) a contract for the provision of financial services consisting of—
 - (i) lending (including the factoring and financing of commercial transactions),
 - (ii) financial leasing, or
 - (iii) providing guarantees or commitments;
- (b) a securities contract, including—
 - (i) a contract for the purchase, sale or loan of a security, group or index of securities;
 - (ii) an option on a security or group or index of securities;
 - (iii) a repurchase or reverse repurchase transaction on any such security, group or index;
- (c) a commodities contract, including—
 - (i) a contract for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
 - (ii) an option on a commodity or group or index of commodities;
 - (iii) a repurchase or reverse repurchase transaction on any such commodity, group or index;
- (d) a futures or forwards contract, including a contract (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date;
- (e) a swap agreement, including—

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- (i) a swap or option relating to interest rates, spot or other foreign exchange agreements, currency, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation;
 - (ii) a total return, credit spread or credit swap;
 - (iii) any agreement or transaction that is similar to an agreement that is referred to in subparagraph (i) or (ii) and is the subject of recurrent dealing in the swaps or derivatives markets;
- (f) an inter-bank borrowing agreement where the term of the borrowing is three months or less;
- (g) a master agreement for any of the contracts or agreements referred to in paragraphs (a) to (f).
- (3) For the purposes of this paragraph “commodities” includes—
- (a) units recognised for compliance with the requirements of EU Directive [2003/87/EC](#) establishing a scheme for greenhouse gas emission allowance trading,
 - (b) allowances under paragraph 5 of Schedule 2 to the Climate Change Act 2008 relating to a trading scheme dealt with under Part 1 of that Schedule (schemes limiting activities relating to emissions of greenhouse gas), and
 - (c) renewables obligation certificates issued—
 - (i) by the Gas and Electricity Markets Authority under an order made under section 32B of the Electricity Act 1989, or
 - (ii) by the Northern Ireland Authority for Utility Regulation under the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)) and pursuant to an order made under Articles 52 to 55F of that Order.

Securities financing transactions

- 3.—(1) This paragraph applies to—
- (a) a securities financing transaction, and
 - (b) a master agreement for securities financing transactions.
- (2) “Securities financing transaction” has the meaning given by Article 3(11) of [Regulation \(EU\) 2015/2365](#) on the transparency of securities financing transactions.
- (3) But for the purposes of that Article as it applies for the purposes of this paragraph, references to “commodities” in that Regulation are to be taken as including the units, allowances and certificates referred to in paragraph 2(3)(a), (b) and (c).

Derivatives

- 4.—(1) This paragraph applies to—
- (a) a derivative, and
 - (b) a master agreement for derivatives.
- (2) “Derivative” has the meaning given by Article 2(5) of [Regulation \(EU\) No. 648/2012](#).

Spot contracts

- 5.—(1) This paragraph applies to—

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- (a) a spot contract, and
- (b) a master agreement for spot contracts.

(2) “Spot contract” has the meaning given by Article 7(2) or 10(2) of Commission Delegated Regulation of 25.4.2016 supplementing [Directive 2014/65/EU](#) of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

Capital market investments

6.—(1) This paragraph applies to an agreement which is, or forms part of, an arrangement involving the issue of a capital market investment.

(2) “Capital market investment” has the meaning given by paragraph 14 of Schedule ZA1.

Contracts forming part of a public-private partnership

7 This paragraph applies to a contract forming part of a public-private partnership project within the meaning given by paragraph 16 of Schedule ZA1.

Market contracts

8 This paragraph applies to a market contract within the meaning of Part 5 of the Companies (No.2) (Northern Ireland) Order 1990 (see Article 80 of that Order).

Qualifying collateral arrangements and qualifying property transfers

9 This paragraph applies to qualifying collateral arrangements and qualifying property transfers within the meaning of Part 7 of the Companies Act 1989 (see section 155A of that Act).

Contracts secured by certain charges or arrangements

- 10** This paragraph applies to a contract where any obligation under the contract is—
- (a) secured by a market charge within the meaning of Part 5 of the Companies (No.2) (Northern Ireland) Order 1990 (see Article 95 of that Order),
 - (b) secured by a system-charge within the meaning of the Financial Markets and Insolvency Regulations (Northern Ireland) 1996 (S.R. (N.I.) 1996/252) (see regulation 2 of those Regulations), or
 - (c) secured or otherwise covered by a financial collateral arrangement within the meaning of the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003/3226) (see regulation 3 of those Regulations).

Default arrangements and transfer orders

11 This paragraph applies to a contract which is included in default arrangements, or a transfer order, within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979) (see regulation 2 of those Regulations).

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Card-based payment transactions

12 This paragraph applies to a contract to accept and process card-based payment transactions within the meaning given by [Regulation \(EU\) 2015/751](#) of the European Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions.

Power to amend Schedule

13.—(1) Regulations may amend this Schedule so as to change the meaning of “contract or other instrument involving financial services” for the purposes of Article 13D.

(2) Regulations may not be made under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.]

^{F3} SCHEDULE A1

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F3 [Sch. A1](#) omitted (26.6.2020) by virtue of [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 7 para. 26](#) (with ss. 2(2), 5(2))

[^{F4}SCHEDULE B1

ADMINISTRATION

F4 [Sch. B1](#) inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(2), [Sch. 1](#) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2-7](#))

Modifications etc. (not altering text)

C3 [Sch. B1](#) applied (with modifications) (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), ss. 73, 87(1)(2), 93(3), [Sch. 10 Pt. 1](#), [Sch. 10 Pt. 2](#)

C4 [Sch. B1](#) applied (with modifications) by S.R. 1995/225, [Sch. 2](#) (as amended (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), [36](#) (with art. 3))

ARRANGEMENT OF SCHEDULE

Interpretation	Paragraph 1
Nature of administration	Paragraphs 2 to 10
Appointment of administrator by High Court	Paragraphs 11 to 14
Appointment of administrator by holder of floating charge	Paragraphs 15 to 22
Appointment of administrator by company or directors	Paragraphs 23 to 35

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Administration application: special cases	Paragraphs 36 to 40
Effect of administration	Paragraphs 41 to 46
Process of administration	Paragraphs 47 to 59
Functions of administrator	Paragraphs 60 to 76
Ending administration	Paragraphs 77 to 87
Replacing administrator	Paragraphs 88 to 100
General	Paragraphs 101 to 111

INTRODUCTORY

Interpretation

1.—(1) In this Schedule—

“administrative receiver” has the meaning given by Article 5(1),

“administrator” has the meaning given by paragraph 2 and, where the context requires, includes a reference to a former administrator,

^{F5}

“correspondence” includes correspondence by telephonic or other electronic means,

“creditors' meeting” has the meaning given by paragraph 51,

“enters administration” has the meaning given by paragraph 2,

“floating charge” means a charge which is a floating charge on its creation,

“in administration” has the meaning given by paragraph 2,

“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement,

“holder of a qualifying floating charge” in respect of a company's property has the meaning given by paragraph 15,

“market value” means the amount which would be realised on a sale of property in the open market by a willing vendor,

“the purpose of administration” means an objective specified in paragraph 4, and

“unable to pay its debts” has the meaning given by Article 103.

[
^{F6}(1A) In this Schedule, “company” means—

[^{F7}(a) a company registered under the Companies Act 2006 in Northern Ireland,]

(b) a company incorporated in an EEA State other than the United Kingdom, or

(c) a company not incorporated in an EEA State but having its centre of main interests in a member State other than Denmark.

(1B) In sub-paragraph (1A), in relation to a company, “centre of main interests” has the same meaning [^{F8}as in Article 3 of the EU Regulation].]

(2) A reference in this Schedule to a thing in writing includes a reference to a thing in electronic form.

(3) In this Schedule a reference to action includes a reference to inaction.

Status: Point in time view as at 26/06/2020.

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- F5** Sch. B1 para. 1(1): definition of "company" omitted (18.10. 2006) by virtue of Insolvency (Northern Ireland) Order 1989 (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/370), **reg. 3(4)(a)** (with reg. 4)
- F6** Sch. B1 para. 1(1A)(1B) inserted (18.10.2006) by Insolvency (Northern Ireland) Order 1989 (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/370), **reg. 3(4)(b)** (with reg. 4)
- F7** Sch. B1 para. 1(1A)(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. 108** (with art. 10)
- F8** Words in Sch. B1 para. 1(1B) substituted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 120** (with reg. 3)

[^{F9}Non-UK companies

- F9** Sch. B1 para. 1A inserted (18.10.2006) by Insolvency (Northern Ireland) Order 1989 (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/370), **reg. 3(5)** (with reg. 4)

1A. A company incorporated [^{F10}outside the United Kingdom] that has a principal place of business in England and Wales or Scotland (or both in England and Wales and in Scotland) may not enter administration under this Schedule unless it also has a principal place of business in Northern Ireland.]

- F10** Words in Sch. B1 para. 1A substituted (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), **Sch. 3 para. 18**; S.R. 2016/203, art. 2

NATURE OF ADMINISTRATION

Administration

2.—(1) For the purposes of this Order “administrator” of a company means a person appointed under this Schedule to manage the company's affairs, business and property.

(2) For the purposes of this Order—

- (a) a company is “in administration” while the appointment of an administrator of the company has effect,
- (b) a company “enters administration” when the appointment of an administrator takes effect,
- (c) a company ceases to be in administration when the appointment of an administrator of the company ceases to have effect in accordance with this Schedule, and
- (d) a company does not cease to be in administration merely because an administrator vacates office (by reason of resignation, death or otherwise) or is removed from office.

3. A person may be appointed as administrator of a company—

- (a) by administration order of the High Court under paragraph 11,
- (b) by the holder of a floating charge under paragraph 15, or
- (c) by the company or its directors under paragraph 23.

Purpose of administration

4.—(1) The administrator of a company must perform his functions with the objective of—

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- (a) rescuing the company as a going concern, or
 - (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
 - (c) realising property in order to make a distribution to one or more secured or preferential creditors.
- (2) Subject to sub-paragraph (4), the administrator of a company must perform his functions in the interests of the company's creditors as a whole.
- (3) The administrator must perform his functions with the objective specified in sub-paragraph (1)
- (a) unless he thinks either—
 - (a) that it is not reasonably practicable to achieve that objective, or
 - (b) that the objective specified in sub-paragraph (1)(b) would achieve a better result for the company's creditors as a whole.
 - (4) The administrator may perform his functions with the objective specified in sub-paragraph (1)
- (c) only if—
- (a) he thinks that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph (1)(a) and (b), and
 - (b) he does not unnecessarily harm the interests of the creditors of the company as a whole.
5. The administrator of a company must perform his functions as quickly and efficiently as is reasonably practicable.

Status of administrator

6. An administrator is an officer of the High Court (whether or not he is appointed by the Court).

General restrictions

7. A person may be appointed as administrator of a company only if he is qualified to act as an insolvency practitioner in relation to the company.
8. A person may not be appointed as administrator of a company which is in administration (subject to the provisions of paragraphs 91 to 98 and 101 to 104 about replacement and additional administrators).
- 9.—(1) A person may not be appointed as administrator of a company which is in liquidation by virtue of—
- (a) a resolution for voluntary winding up, or
 - (b) a winding-up order.
- (2) Sub-paragraph (1)(a) is subject to paragraph 39.
- (3) Sub-paragraph (1)(b) is subject to paragraphs 38 and 39.
- 10.—(1) A person may not be appointed as administrator of a company which—
- (a) has a liability in respect of a deposit which it accepted in accordance with the Banking Act 1979 (c. 37) or 1987 (c. 22), but
 - (b) is not an authorised deposit taker.
- (2) A person may not be appointed as administrator of a company which effects or carries out contracts of insurance.
- (3) But sub-paragraph (2) does not apply to a company which—

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- (a) is exempt from the general prohibition in relation to effecting or carrying out contracts of insurance, or
 - (b) is an authorised deposit taker effecting or carrying out contracts of insurance in the course of a banking business.
- (4) In this paragraph—
- “authorised deposit taker” means a person with permission under Part IV of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, and
 - “the general prohibition” has the meaning given by section 19 of that Act.
- (5) This paragraph shall be construed in accordance with—
- (a) section 22 of the Financial Services and Markets Act 2000 (classes of regulated activity and categories of investment),
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act (regulated activities).

APPOINTMENT OF ADMINISTRATOR BY HIGH COURT

Administration order

- 11.** An administration order is an order appointing a person as the administrator of a company.

Conditions for making order

- 12.** The High Court may make an administration order in relation to a company only if satisfied—
- (a) that the company is or is likely to become unable to pay its debts, and
 - (b) that the administration order is reasonably likely to achieve the purpose of administration.

Administration application

- 13.—(1)** An application to the High Court for an administration order in respect of a company (an “administration application”) may be made only by—
- (a) the company,
 - (b) the directors of the company,
 - (c) one or more creditors of the company,
 - (d) the chief clerk in the exercise of the power conferred by section 35(4A) of the Criminal Justice Act (Northern Ireland) 1945 (c. 15) (fine imposed on company),
 - (e) a clerk of petty sessions in exercise of the power conferred by Article 92A of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26), (fines imposed on company), or
 - (f) a combination of persons listed in paragraphs (a) to (e).
- (2) As soon as is reasonably practicable after the making of an administration application the applicant shall notify—
- (a) any person who has appointed an administrative receiver of the company,
 - (b) any person who is or may be entitled to appoint an administrative receiver of the company,
 - (c) any person who is or may be entitled to appoint an administrator of the company under paragraph 15, and
 - (d) such other persons as may be prescribed.

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- (3) An administration application may not be withdrawn without the permission of the Court.
- (4) In sub-paragraph (1) “creditor” includes a contingent creditor and a prospective creditor.
- (5) Sub-paragraph (1) is without prejudice to Article 20(4)(b).

Powers of High Court

- 14.**—(1) On hearing an administration application the High Court may—
- (a) make the administration order sought;
 - (b) dismiss the application;
 - (c) adjourn the hearing conditionally or unconditionally;
 - (d) make an interim order;
 - (e) treat the application as a winding-up petition and make any order which the Court could make under Article 105;
 - (f) make any other order which the Court thinks appropriate.
- (2) An appointment of an administrator by administration order takes effect—
- (a) at a time appointed by the order, or
 - (b) where no time is appointed by the order, when the order is made.
- (3) An interim order under sub-paragraph (1)(d) may, in particular—
- (a) restrict the exercise of a power of the directors or the company;
 - (b) make provision conferring a discretion on the Court or on a person qualified to act as an insolvency practitioner in relation to the company.
- (4) This paragraph is subject to paragraph 40.

APPOINTMENT OF ADMINISTRATOR BY HOLDER OF FLOATING CHARGE

Power to appoint

- 15.**—(1) The holder of a qualifying floating charge in respect of a company's property may appoint an administrator of the company.
- (2) For the purposes of sub-paragraph (1) a floating charge qualifies if created by an instrument which—
- (a) states that this paragraph applies to the floating charge,
 - (b) purports to empower the holder of the floating charge to appoint an administrator of the company, or
 - (c) purports to empower the holder of the floating charge to make an appointment which would be the appointment of an administrative receiver within the meaning given by Article 5(1).
- (3) For the purposes of sub-paragraph (1) a person is the holder of a qualifying floating charge in respect of a company's property if he holds one or more debentures of the company secured—
- (a) by a qualifying floating charge which relates to the whole or substantially the whole of the company's property,
 - (b) by a number of qualifying floating charges which together relate to the whole or substantially the whole of the company's property, or

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- (c) by charges and other forms of security which together relate to the whole or substantially the whole of the company's property and at least one of which is a qualifying floating charge.

Restrictions on power to appoint

- 16.—**(1) A person may not appoint an administrator under paragraph 15 unless—
- (a) he has given at least 2 business days' written notice to the holder of any prior floating charge which satisfies paragraph 15(2), or
 - (b) the holder of any prior floating charge which satisfies paragraph 15(2) has consented in writing to the making of the appointment.
- (2) One floating charge is prior to another for the purposes of this paragraph if—
- (a) it was created first, or
 - (b) it is to be treated as having priority in accordance with an agreement to which the holder of each floating charge was party.
- 17.** An administrator may not be appointed under paragraph 15 while a floating charge on which the appointment relies is not enforceable.
- 18.** An administrator of a company may not be appointed under paragraph 15 if—
- (a) a provisional liquidator of the company has been appointed under Article 115, or
 - (b) an administrative receiver of the company is in office.

Notice of appointment

- 19.—**(1) A person who appoints an administrator of a company under paragraph 15 shall file with the High Court—
- (a) a notice of appointment, and
 - (b) such other documents as may be prescribed.
- (2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—
- (a) that the person is the holder of a qualifying floating charge in respect of the company's property,
 - (b) that each floating charge relied on in making the appointment is (or was) enforceable on the date of the appointment, and
 - (c) that the appointment is in accordance with this Schedule.
- (3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—
- (a) that he consents to the appointment,
 - (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
 - (c) giving such other information and opinions as may be prescribed.
- (4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by directors of the company (unless he has reason to doubt its accuracy).
- (5) The notice of appointment and any document accompanying it must be in the prescribed form.
- (6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.

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(7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—

- (a) which is false, and
- (b) which he does not reasonably believe to be true.

Commencement of appointment

20. The appointment of an administrator under paragraph 15 takes effect when the requirements of paragraph 19 are satisfied.

21. A person who appoints an administrator under paragraph 15—

- (a) shall notify the administrator and such other persons as may be prescribed as soon as is reasonably practicable after the requirements of paragraph 19 are satisfied, and
- (b) commits an offence if he fails without reasonable excuse to comply with paragraph (a).

Invalid appointment: indemnity

22.—(1) This paragraph applies where—

- (a) a person purports to appoint an administrator under paragraph 15, and
- (b) the appointment is discovered to be invalid.

(2) The High Court may order the person who purported to make the appointment to indemnify the person appointed against liability which arises solely by reason of the appointment's invalidity.

APPOINTMENT OF ADMINISTRATOR BY COMPANY OR DIRECTORS

Power to appoint

23.—(1) A company may appoint an administrator.

(2) The directors of a company may appoint an administrator.

Restrictions on power to appoint

24.—(1) This paragraph applies where an administrator of a company is appointed—

- (a) under paragraph 23, or
- (b) on an administration application made by the company or its directors.

(2) An administrator of the company may not be appointed under paragraph 23 during the period of 12 months beginning with the date on which the appointment referred to in sub-paragraph (1) ceases to have effect.

^{F11}**25.**

F11 Sch. B1 para. 25 omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), Sch. 7 para. 27(2) (with ss. 2(2), 5(2))

26. An administrator of a company may not be appointed under paragraph 23 if—

- (a) a petition for the winding up of the company has been presented and is not yet disposed of,
- (b) an administration application has been made and is not yet disposed of, or
- (c) an administrative receiver of the company is in office.

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Notice of intention to appoint

27.—(1) A person who proposes to make an appointment under paragraph 23 shall give at least 5 business days' written notice to—

- (a) any person who is or may be entitled to appoint an administrative receiver of the company, and
- (b) any person who is or may be entitled to appoint an administrator of the company under paragraph 15.

(2) A person who proposes to make an appointment under paragraph 23 shall also give such notice as may be prescribed to such other persons as may be prescribed.

(3) A notice under this paragraph must—

- (a) identify the proposed administrator, and
- (b) be in the prescribed form.

28.—(1) A person who gives notice of intention to appoint under paragraph 27 shall file with the High Court as soon as is reasonably practicable a copy of—

- (a) the notice, and
- (b) any document accompanying it.

(2) The copy filed under sub-paragraph (1) must be accompanied by a statutory declaration made by or on behalf of the person who proposes to make the appointment—

- (a) that the company is or is likely to become unable to pay its debts,
- (b) that the company is not in liquidation, and
- (c) that, so far as the person making the statement is able to ascertain, the appointment is not prevented by paragraphs 24 to 26, and
- (d) to such additional effect, and giving such information, as may be prescribed.

(3) A statutory declaration under sub-paragraph (2) must—

- (a) be in the prescribed form, and
- (b) be made during the prescribed period.

(4) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—

- (a) which is false, and
- (b) which he does not reasonably believe to be true.

29.—(1) An appointment may not be made under paragraph 23 unless the person who makes the appointment has complied with any requirement of paragraphs 27 and 28 and—

- (a) the period of notice specified in paragraph 27(1) has expired, or
- (b) each person to whom notice has been given under paragraph 27(1) has consented in writing to the making of the appointment.

(2) An appointment may not be made under paragraph 23 after the period of 10 business days beginning with the date on which the notice of intention to appoint is filed under paragraph 28(1).

Notice of appointment

30.—(1) A person who appoints an administrator of a company under paragraph 23 shall file with the High Court—

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- (a) a notice of appointment, and
 - (b) such other documents as may be prescribed.
- (2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—
- (a) that the person is entitled to make an appointment under paragraph 23,
 - (b) that the appointment is in accordance with this Schedule, and
 - (c) that, so far as the person making the statement is able to ascertain, the statements made and information given in the statutory declaration filed with the notice of intention to appoint remain accurate.
- (3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—
- (a) that he consents to the appointment,
 - (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
 - (c) giving such other information and opinions as may be prescribed.
- (4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by directors of the company (unless he has reason to doubt its accuracy).
- (5) The notice of appointment and any document accompanying it must be in the prescribed form.
- (6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.
- (7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
- (a) which is false, and
 - (b) which he does not reasonably believe to be true.
- 31.** In a case in which no person is entitled to notice of intention to appoint under paragraph 27(1) (and paragraph 29 therefore does not apply)—
- (a) the statutory declaration accompanying the notice of appointment must include the statements and information required under paragraph 28(2), and
 - (b) paragraph 30(2)(c) shall not apply.

Commencement of appointment

- 32.** The appointment of an administrator under paragraph 23 takes effect when the requirements of paragraph 30 are satisfied.
- 33.** A person who appoints an administrator under paragraph 23—
- (a) shall notify the administrator and such other persons as may be prescribed as soon as is reasonably practicable after the requirements of paragraph 30 are satisfied, and
 - (b) commits an offence if he fails without reasonable excuse to comply with paragraph (a).
- 34.** If before the requirements of paragraph 30 are satisfied the company enters administration by virtue of an administration order or an appointment under paragraph 15—
- (a) the appointment under paragraph 23 shall not take effect, and
 - (b) paragraph 33 shall not apply.

Invalid appointment: indemnity

- 35.—(1)** This paragraph applies where—

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- (a) a person purports to appoint an administrator under paragraph 23, and
 - (b) the appointment is discovered to be invalid.
- (2) The High Court may order the person who purported to make the appointment to indemnify the person appointed against liability which arises solely by reason of the appointment's invalidity.

ADMINISTRATION APPLICATION — SPECIAL CASES

Application by holder of floating charge

- 36.**—(1) This paragraph applies where an administration application in respect of a company—
- (a) is made by the holder of a qualifying floating charge in respect of the company's property, and
 - (b) includes a statement that the application is made in reliance on this paragraph.
- (2) The High Court may make an administration order—
- (a) whether or not satisfied that the company is or is likely to become unable to pay its debts, but
 - (b) only if satisfied that the applicant could appoint an administrator under paragraph 15.

Intervention by holder of floating charge

- 37.**—(1) This paragraph applies where—
- (a) an administration application in respect of a company is made by a person who is not the holder of a qualifying floating charge in respect of the company's property, and
 - (b) the holder of a qualifying floating charge in respect of the company's property applies to the High Court to have a specified person appointed as administrator (and not the person specified by the administration applicant).
- (2) The Court shall grant an application under sub-paragraph (1)(b) unless the Court thinks it right to refuse the application because of the particular circumstances of the case.

Application where company in liquidation

- 38.**—(1) This paragraph applies where the holder of a qualifying floating charge in respect of a company's property could appoint an administrator under paragraph 15 but for paragraph 9(1)(b).
- (2) The holder of the qualifying floating charge may make an administration application.
- (3) If the High Court makes an administration order on hearing an application made by virtue of sub-paragraph (2)—
- (a) the Court shall discharge the winding-up order,
 - (b) the Court shall make provision for such matters as may be prescribed,
 - (c) the Court may make other consequential provision,
 - (d) the Court shall specify which of the powers under this Schedule are to be exercisable by the administrator, and
 - (e) this Schedule shall have effect with such modifications as the Court may specify.

- 39.**—(1) The liquidator of a company may make an administration application.
- (2) If the High Court makes an administration order on hearing an application made by virtue of sub-paragraph (1)—

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- (a) the Court shall discharge any winding-up order in respect of the company,
- (b) the Court shall make provision for such matters as may be prescribed,
- (c) the Court may make other consequential provision,
- (d) the Court shall specify which of the powers under this Schedule are to be exercisable by the administrator, and
- (e) this Schedule shall have effect with such modifications as the Court may specify.

Effect of administrative receivership

40.—(1) Where there is an administrative receiver of a company the High Court must dismiss an administration application in respect of the company unless—

- (a) the person by or on behalf of whom the receiver was appointed consents to the making of the administration order,
- (b) the Court thinks that the security by virtue of which the receiver was appointed would be liable to be released or discharged under Articles 202 to 204 (transaction at undervalue and preference) if an administration order were made, or
- (c) the Court thinks that the security by virtue of which the receiver was appointed would be avoided under Article 207 (avoidance of floating charge) if an administration order were made.

(2) Sub-paragraph (1) applies whether the administrative receiver is appointed before or after the making of the administration application.

EFFECT OF ADMINISTRATION

Dismissal of pending winding-up petition

PROSPECTIVE

41.—(1) A petition for the winding up of a company—

- (a) shall be dismissed on the making of an administration order in respect of the company, and
- (b) shall be suspended while the company is in administration following an appointment under paragraph 15.

(2) Sub-paragraph (1)(b) does not apply to a petition presented under—

- (a) Article 104A (public interest),
- (b) Article 104B (SEs), or
- (c) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by [^{F12}Financial Conduct Authority or the Prudential Regulation Authority]).

(3) Where an administrator becomes aware that a petition was presented under a provision referred to in sub-paragraph (2) before his appointment, he shall apply to the High Court for directions under paragraph 64.

F12 Words in Sch. B1 para. 41(2)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 7(d)

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Modifications etc. (not altering text)

C5 Sch. B1 para. 41 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), **ss. 119, 134, 263(1)** (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch.

Dismissal of administrative or other receiver

42.—(1) When an administration order takes effect in respect of a company any administrative receiver of the company shall vacate office.

(2) Where a company is in administration, any receiver of part of the company's property shall vacate office if the administrator requires him to.

(3) Where an administrative receiver or receiver vacates office under sub-paragraph (1) or (2)—

- (a) his remuneration shall be charged on and paid out of any property of the company which was in his custody or under his control immediately before he vacated office, and
- (b) he need not take any further steps under Article 50.

(4) In the application of sub-paragraph (3)(a)—

- (a) “remuneration” includes expenses properly incurred and any indemnity to which the administrative receiver or receiver is entitled out of the assets of the company,
- (b) the charge imposed takes priority over security held by the person by whom or on whose behalf the administrative receiver or receiver was appointed, and
- (c) the provision for payment is subject to paragraph 44.

Modifications etc. (not altering text)

C6 Sch. B1 para. 42(2) excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**))

Moratorium on insolvency proceedings

43.—(1) This paragraph applies to a company in administration.

(2) No resolution may be passed for the winding up of the company.

(3) No order may be made for the winding up of the company.

(4) Sub-paragraph (3) does not apply to an order made on a petition presented under—

- (a) Article 104A (public interest),
- (b) Article 104B (SEs), or
- (c) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by [^{F13}Financial Conduct Authority or the Prudential Regulation Authority]).

(5) If a petition presented under a provision referred to in sub-paragraph (4) comes to the attention of the administrator, he shall apply to the High Court for directions under paragraph 64.

F13 Words in Sch. B1 para. 43(4)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 7(d)**

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Modifications etc. (not altering text)

C7 Sch. B1 para. 43 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 119, 134, 263(1) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch.

Moratorium on other legal process

- 44.**—(1) This paragraph applies to a company in administration.
- (2) No step may be taken to enforce security over the company's property except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the High Court.
- (3) No step may be taken to repossess goods in the company's possession under a hire-purchase agreement except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the Court.
- (4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the company except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the Court.
- (5) No legal process (including legal proceedings, execution and distress) may be instituted or continued against the company or property of the company except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the Court.
- (6) An administrative receiver of the company may not be appointed.
- (7) Where the Court gives permission for a transaction under this paragraph it may impose a condition on or a requirement in connection with the transaction.
- (8) In this paragraph “landlord” includes a person to whom rent is payable.

Modifications etc. (not altering text)

C8 Sch. B1 para. 44(2)(3) excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7))

Interim moratorium

PROSPECTIVE

- 45.**—(1) This paragraph applies where an administration application in respect of a company has been made and—
- (a) the application has not yet been granted or dismissed, or
 - (b) the application has been granted but the administration order has not yet taken effect.

Status: Point in time view as at 26/06/2020.

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(2) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator under paragraph 15 is filed with the High Court until—

- (a) the appointment of the administrator takes effect, or
- (b) the period of 5 business days beginning with the date of filing expires without an administrator having been appointed.

(3) Sub-paragraph (2) has effect in relation to a notice of intention to appoint only if it is in the prescribed form.

(4) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator is filed with the Court under paragraph 28(1) until—

- (a) the appointment of the administrator takes effect, or
- (b) the period specified in paragraph 29(2) expires without an administrator having been appointed.

PROSPECTIVE

(5) The provisions of paragraphs 43 and 44 shall apply (ignoring any reference to the consent of the administrator).

(6) If there is an administrative receiver of the company when the administration application is made, the provisions of paragraphs 43 and 44 shall not begin to apply by virtue of this paragraph until the person by or on behalf of whom the receiver was appointed consents to the making of the administration order.

PROSPECTIVE

(7) This paragraph does not prevent or require the permission of the High Court for—

- (a) the presentation of a petition for the winding up of the company under a provision mentioned in paragraph 43(4),
- (b) the appointment of an administrator under paragraph 15,
- (c) the appointment of an administrative receiver of the company, or
- (d) the carrying out by an administrative receiver (whenever appointed) of his functions.

Modifications etc. (not altering text)

- C9** Sch. B1 para. 45 modified (21.3.2011) by [Energy Act \(Northern Ireland\) 2011 \(c. 6\), ss. 25\(4\), 36\(1\); S.R. 2011/95, art. 2\(1\)](#)
- C10** Sch. B1 para. 45 modified (21.3.2011) by [Energy Act \(Northern Ireland\) 2011 \(c. 6\), ss. 26\(4\), 36\(1\); S.R. 2011/95, art. 2\(1\)](#)
- C11** Sch. B1 para. 45 restricted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), ss. 76\(4\), 85\(8\), 87\(1\)\(2\), 93\(3\); S.I. 2011/2329, art. 3\(1\)](#)
- C12** Sch. B1 para. 45 restricted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), ss. 77\(5\), 85\(8\), 87\(1\)\(2\), 93\(3\); S.I. 2011/2329, art. 3\(1\)](#)

Publicity

^[F14]**46.**—(1) While a company is in administration, every business document issued by or on behalf of the company or the administrator, and all the company's websites, must state—

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- (a) the name of the administrator, and
 - (b) that the affairs, business and property of the company are being managed by the administrator.
- (2) Any of the following persons commits an offence if without reasonable excuse the person authorises or permits a contravention of sub-paragraph (1)—
- (a) the administrator,
 - (b) an officer of the company, and
 - (c) the company.
- (3) In sub-paragraph (1) “business document” means—
- (a) an invoice,
 - (b) an order for goods or services,
 - (c) a business letter, and
 - (d) an order form,
- whether in hard copy, electronic or any other form.]

F14 Sch. B1 para. 46 substituted (1.10.2008) by Companies (Trading Disclosures) (Insolvency) Regulations 2008 (S.I. 2008/1897), reg. 4(2)

PROCESS OF ADMINISTRATION

Announcement of administrator's appointment

- 47.**—(1) This paragraph applies where a person becomes the administrator of a company.
- (2) As soon as is reasonably practicable the administrator shall—
- (a) send a notice of his appointment to the company, and
 - (b) publish a notice of his appointment in the prescribed manner.
- (3) As soon as is reasonably practicable the administrator shall—
- (a) obtain a list of the company's creditors, and
 - (b) send a notice of his appointment to each creditor of whose claim and address he is aware.
- (4) The administrator shall send a notice of his appointment to the registrar before the end of the period of 7 days beginning with the date specified in sub-paragraph (6).
- (5) The administrator shall send a notice of his appointment to such persons as may be prescribed before the end of the prescribed period beginning with the date specified in sub-paragraph (6).
- (6) The date for the purpose of sub-paragraphs (4) and (5) is—
- (a) in the case of an administrator appointed by administration order, the date of the order,
 - (b) in the case of an administrator appointed under paragraph 15, the date on which he receives notice under paragraph 21, and
 - (c) in the case of an administrator appointed under paragraph 23, the date on which he receives notice under paragraph 33.
- (7) The High Court may direct that sub-paragraph (3)(b) or (5)—
- (a) shall not apply, or
 - (b) shall apply with the substitution of a different period.
- (8) A notice under this paragraph must—

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- (a) contain the prescribed information, and
- (b) be in the prescribed form.

(9) An administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.

Statement of company's affairs

48.—(1) As soon as is reasonably practicable after appointment the administrator of a company shall by notice in the prescribed form require one or more relevant persons to provide the administrator with a statement of the affairs of the company.

(2) The statement must—

- (a) be verified by affidavit,
- (b) be in the prescribed form,
- (c) give particulars of the company's property, debts and liabilities,
- (d) give the names and addresses of the company's creditors,
- (e) specify the security held by each creditor,
- (f) give the date on which each security was granted, and
- (g) contain such other information as may be prescribed.

(3) In sub-paragraph (1) “relevant person” means—

- (a) a person who is or has been an officer of the company,
- (b) a person who took part in the formation of the company during the period of one year ending with the date on which the company enters administration,
- (c) a person employed by the company during that period, and
- (d) a person who is or has been during that period an officer or employee of a company which is or has been during that year an officer of the company.

(4) For the purpose of sub-paragraph (3) a reference to employment is a reference to employment through a contract of employment or a contract for services.

49.—(1) A person required to submit a statement of affairs must do so before the end of the period of 11 days beginning with the day on which he receives notice of the requirement.

(2) The administrator may—

- (a) revoke a requirement under paragraph 48(1), or
- (b) extend the period specified in sub-paragraph (1) (whether before or after expiry).

(3) If the administrator refuses a request to act under sub-paragraph (2)—

- (a) the person whose request is refused may apply to the High Court, and
- (b) the Court may take action of a kind specified in sub-paragraph (2).

(4) A person commits an offence if he fails without reasonable excuse to comply with a requirement under paragraph 48(1).

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Administrator's proposals

PROSPECTIVE

50.—(1) The administrator of a company shall make a statement setting out proposals for achieving the purpose of administration.

PROSPECTIVE

- (2) A statement under sub-paragraph (1) must, in particular—
- (a) deal with such matters as may be prescribed, and
 - (b) where applicable, explain why the administrator thinks that the objective mentioned in paragraph 4(1)(a) or (b) cannot be achieved.

PROSPECTIVE

- (3) Proposals under this paragraph may include—
- (a) a proposal for a voluntary arrangement under Part II of this Order (although this paragraph is without prejudice to Article 17(3));
 - (b) a proposal for a compromise or arrangement to be sanctioned under [^{F15}Part 26 [^{F16}or 26A] of the Companies Act 2006 (arrangements and reconstructions)].
- (4) The administrator shall send a copy of the statement of his proposals—
- (a) to the registrar,
 - (b) to every creditor of the company of whose claim and address he is aware, and
 - (c) to every member of the company of whose address he is aware.
- (5) The administrator shall comply with sub-paragraph (4)—
- (a) as soon as is reasonably practicable after the company enters administration, and
 - (b) in any event, before the end of the period of 8 weeks beginning with the day on which the company enters administration.
- (6) The administrator shall be taken to comply with sub-paragraph (4)(c) if he publishes in the prescribed manner a notice undertaking to provide a copy of the statement of proposals free of charge to any member of the company who applies in writing to a specified address.
- (7) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).
- (8) A period specified in this paragraph may be varied in accordance with paragraph 108.

F15 Words in Sch. B1 para. 50(3)(b) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 166(a)** (with arts. 6, 11, 12)

F16 Words in Sch. B1 para. 50(3)(b) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 10(2)** (with ss. 2(2), 5(2))

Status: Point in time view as at 26/06/2020.

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Creditors' meeting

51.—(1) In this Schedule “creditors' meeting” means a meeting of creditors of a company summoned by the administrator—

- (a) in the prescribed manner, and
- (b) giving the prescribed period of notice to every creditor of the company of whose claim and address he is aware.

(2) A period prescribed under sub-paragraph (1)(b) may be varied in accordance with paragraph 108.

(3) A creditors' meeting shall be conducted in accordance with the rules.

Requirement for initial creditors' meeting

52.—(1) Each copy of an administrator's statement of proposals sent to a creditor under paragraph 50(4)(b) must be accompanied by an invitation to a creditors' meeting (an “initial creditors' meeting”).

(2) The date set for an initial creditors' meeting must be—

- (a) as soon as is reasonably practicable after the company enters administration, and
- (b) in any event, within the period of 10 weeks beginning with the date on which the company enters administration.

(3) An administrator shall present a copy of his statement of proposals to an initial creditors' meeting.

(4) A period specified in this paragraph may be varied in accordance with paragraph 108.

(5) An administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.

53.—(1) Paragraph 52(1) shall not apply where the statement of proposals states that the administrator thinks—

- (a) that the company has sufficient property to enable each creditor of the company to be paid in full,
- (b) that the company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of Article 150A(2)(a), or
- (c) that neither of the objectives specified in paragraph 4(1)(a) and (b) can be achieved.

(2) But the administrator shall summon an initial creditors' meeting if it is requested—

- (a) by creditors of the company whose debts amount to at least 10 per cent. of the total debts of the company,
- (b) in the prescribed manner, and
- (c) in the prescribed period.

(3) A meeting requested under sub-paragraph (2) must be summoned for a date in the prescribed period.

(4) The period prescribed under sub-paragraph (3) may be varied in accordance with paragraph 108.

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Business and result of initial creditors' meeting

54.—(1) An initial creditors' meeting to which an administrator's proposals are presented shall consider them and may—

- (a) approve them without modification, or
- (b) approve them with modification to which the administrator consents.

(2) After the conclusion of an initial creditors' meeting the administrator shall as soon as is reasonably practicable report any decision taken to—

- (a) the High Court,
- (b) the registrar, and
- (c) such other persons as may be prescribed.

(3) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (2).

Revision of administrator's proposals

55.—(1) This paragraph applies where—

- (a) an administrator's proposals have been approved (with or without modification) at an initial creditors' meeting,
- (b) the administrator proposes a revision to the proposals, and
- (c) the administrator thinks that the proposed revision is substantial.

(2) The administrator shall—

- (a) summon a creditors' meeting,
- (b) send a statement in the prescribed form of the proposed revision with the notice of the meeting sent to each creditor,
- (c) send a copy of the statement, within the prescribed period, to each member of the company of whose address he is aware, and
- (d) present a copy of the statement to the meeting.

(3) The administrator shall be taken to have complied with sub-paragraph (2)(c) if he publishes a notice undertaking to provide a copy of the statement free of charge to any member of the company who applies in writing to a specified address.

(4) A notice under sub-paragraph (3) must be published—

- (a) in the prescribed manner, and
- (b) within the prescribed period.

(5) A creditors' meeting to which a proposed revision is presented shall consider it and may—

- (a) approve it without modification, or
- (b) approve it with modification to which the administrator consents.

(6) After the conclusion of a creditors' meeting the administrator shall as soon as is reasonably practicable report any decision taken to—

- (a) the High Court,
- (b) the registrar, and
- (c) such other persons as may be prescribed.

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(7) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (6).

Failure to obtain approval of administrator's proposals

- 56.**—(1) This paragraph applies where an administrator reports to the High Court that—
- (a) an initial creditors' meeting has failed to approve the administrator's proposals presented to it, or
 - (b) a creditors' meeting has failed to approve a revision of the administrator's proposals presented to it.
- (2) The Court may—
- (a) provide that the appointment of an administrator shall cease to have effect from a specified time;
 - (b) adjourn the hearing conditionally or unconditionally;
 - (c) make an interim order;
 - (d) make an order on a petition for winding up suspended by virtue of paragraph 41(1)(b);
 - (e) make any other order (including an order making consequential provision) that the Court thinks appropriate.

Further creditors' meetings

- 57.**—(1) The administrator of a company shall summon a creditors' meeting if—
- (a) it is requested in the prescribed manner by creditors of the company whose debts amount to at least 10 per cent. of the total debts of the company, or
 - (b) he is directed by the High Court to summon a creditors' meeting.
- (2) An administrator commits an offence if he fails without reasonable excuse to summon a creditors' meeting as required by this paragraph.

Creditors' committee

- 58.**—(1) A creditors' meeting may establish a creditors' committee.
- (2) A creditors' committee shall carry out functions conferred on it by or under this Order.
- (3) A creditors' committee may require the administrator—
- (a) to attend on the committee at any reasonable time of which he is given at least 7 days' notice, and
 - (b) to provide the committee with information about the exercise of his functions.

Correspondence instead of creditors' meeting

- 59.**—(1) Anything which is required or permitted by or under this Schedule to be done at a creditors' meeting may be done by correspondence between the administrator and creditors—
- (a) in accordance with the rules, and
 - (b) subject to any prescribed condition.
- (2) A reference in this Schedule to anything done at a creditors' meeting includes a reference to anything done in the course of correspondence in reliance on sub-paragraph (1).

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(3) A requirement to hold a creditors' meeting is satisfied by conducting correspondence in accordance with this paragraph.

FUNCTIONS OF ADMINISTRATOR

General powers

60.—(1) The administrator of a company may do anything necessary or expedient for the management of the affairs, business and property of the company.

(2) A provision of this Schedule which expressly permits the administrator to do a specified thing is without prejudice to the generality of sub-paragraph (1).

(3) A person who deals with the administrator of a company in good faith and for value need not inquire whether the administrator is acting within his powers.

61.—[

^{F17}(1)] The administrator of a company has the powers specified in Schedule 1.

[

^{F18}(2) But the power to sell, hire out or otherwise dispose of property is subject to any regulations that may be made under paragraph 61A.]

F17 Sch. B1 para. 61 renumbered as Sch. B1 para. 61(1) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), ss. **9(3)**, 49(1) (with ss. 2(2), 5(2))

F18 Sch. B1 para. 61(2) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), ss. **9(4)**, 49(1) (with ss. 2(2), 5(2))

[

^{F19}**61A.**—(1) Regulations may make provision for—

- (a) prohibiting, or
- (b) imposing requirements or conditions in relation to,

the disposal, hiring out or sale of property of a company by the administrator to a connected person in circumstances specified in the regulations.

(2) Regulations under this paragraph may in particular require the approval of, or provide for the imposition of requirements or conditions by—

- (a) creditors of the company,
- (b) the High Court, or
- (c) a person of a description specified in the regulations.

(3) In sub-paragraph (1), “connected person”, in relation to a company, means—

- (a) a relevant person in relation to the company, or
- (b) a company connected with the company.

(4) For the purposes of sub-paragraph (3)—

- (a) “relevant person”, in relation to a company, means—
 - (i) a director or other officer, or shadow director, of the company;
 - (ii) a non-employee associate of such a person;
 - (iii) a non-employee associate of the company;

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- (b) a company is connected with another if any relevant person of one is or has been a relevant person of the other.
- (5) In sub-paragraph (4), “non-employee associate” of a person means a person who is an associate of that person otherwise than by virtue of employing or being employed by that person.
- (6) Paragraph (11) of Article 4 (extended definition of company) applies for the purposes of sub-paragraphs (3) to (5) as it applies for the purposes of that Article.
- (7) Regulations under this paragraph may make incidental, consequential, supplemental and transitional provision.
- (8) Regulations may not be made under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (9) This paragraph expires at the end of June 2021 unless the power conferred by it is exercised before then.]

F19 Sch. B1 para. 61A inserted (26.6.2020) by *Corporate Insolvency and Governance Act 2020 (c. 12)*, ss. 9(5), 49(1) (with ss. 2(2), 5(2))

- 62.** The administrator of a company—
 - (a) may remove a director of the company, and
 - (b) may appoint a director of the company (whether or not to fill a vacancy).
- 63.** The administrator of a company may call a meeting of members or creditors of the company.
- 64.** The administrator of a company may apply to the High Court for directions in connection with his functions.
- 65.—(1)** A company in administration or an officer of a company in administration may not exercise a management power without the consent of the administrator.
 - (2) For the purpose of sub-paragraph (1)—
 - (a) “management power” means a power which could be exercised so as to interfere with the exercise of the administrator's powers,
 - (b) it is immaterial whether the power is conferred by an enactment or an instrument, and
 - (c) consent may be general or specific.

Distribution

- F20 65A.—(1)** This paragraph applies where a company enters administration before the end of the period of 12 weeks beginning with the day after the end of any moratorium under Part 1A.
 - (2) The administrator must make a distribution to the creditors of the company in respect of—
 - (a) moratorium debts (within the meaning given by Article 148A), and
 - (b) priority pre-moratorium debts (within the meaning given by Article 148A).
 - (3) A sum payable under sub-paragraph (2) is to be paid in priority to—
 - (a) any security to which paragraph 71 applies;
 - (b) any sums payable under paragraph 100.
 - (4) The administrator must realise any property necessary to comply with sub-paragraph (2).

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(5) The rules may make provision as to the order in which the moratorium and priority pre-moratorium debts rank among themselves for the purposes of this paragraph in a case where the assets of the company are insufficient to meet them in full.]

F20 Sch. B1 para. 65A inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 7 para. 27\(3\)](#) (with ss. 2(2), 5(2))

66.—^[F21](1) If the assets of a company are sufficient to meet any debts or other liabilities payable under paragraph 65A in full, the administrator of the company may make a distribution to any other creditor of the company.]

(2) ^[F22]Articles 149 and 150ZZA] shall apply in relation to a distribution under this paragraph as ^[F23]they apply] in relation to a winding up.

(3) A payment may not be made by way of distribution under this paragraph to a creditor of the company who is neither secured nor preferential unless the High Court gives permission.

F21 Sch. B1 para. 66(1) substituted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 7 para. 27\(4\)](#) (with ss. 2(2), 5(2))

F22 Words in Sch. B1 para. 66(2) substituted (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), [31\(2\)\(a\)](#) (with art. 3)

F23 Words in Sch. B1 para. 66(2) substituted (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), [31\(2\)\(b\)](#) (with art. 3)

Modifications etc. (not altering text)

C13 Sch. B1 para. 66(1) modified (06.03.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 1(1), [Sch. para. 9\(2\)\(a\)](#)

C14 Sch. B1 para. 66(2) 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\(d\)\(ii\)](#))

67. ^[F24]If the debts or other liabilities payable under paragraph 65A have been met, the administrator of a company] may make a payment otherwise than in accordance with paragraph 66 or paragraph 14 of Schedule 1 if he thinks it likely to assist achievement of the purpose of administration.

F24 Words in Sch. B1 para. 67 substituted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 7 para. 27\(5\)](#) (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C15 Sch. B1 para. 67 modified (06.03.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 1(1), [Sch. para. 9\(2\)\(a\)](#)

General duties

68. The administrator of a company shall on his appointment take custody or control of all the property to which he thinks the company is entitled.

69.—(1) Subject to sub-paragraph (2), the administrator of a company shall manage its affairs, business and property in accordance with—

(a) any proposals approved under paragraph 54,

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- (b) any revision of those proposals which is made by him and which he does not consider substantial, and
 - (c) any revision of those proposals approved under paragraph 55.
- (2) If the High Court gives directions to the administrator of a company in connection with any aspect of his management of the company's affairs, business or property, the administrator shall comply with the directions.
- (3) The Court may give directions under sub-paragraph (2) only if—
- (a) no proposals have been approved under paragraph 54,
 - (b) the directions are consistent with any proposals or revision approved under paragraph 54 or 55,
 - (c) the Court thinks the directions are required in order to reflect a change in circumstances since the approval of proposals or a revision under paragraph 54 or 55, or
 - (d) the Court thinks the directions are desirable because of a misunderstanding about proposals or a revision approved under paragraph 54 or 55.

Administrator as agent of company

70. In exercising his functions under this Schedule the administrator of a company acts as its agent.

Charged property: floating charge

71.—(1) The administrator of a company may dispose of or take action relating to property which is subject to a floating charge as if it were not subject to the charge.

(2) Where property is disposed of in reliance on sub-paragraph (1) the holder of the floating charge shall have the same priority in respect of acquired property as he had in respect of the property disposed of.

(3) In sub-paragraph (2) “acquired property” means property of the company which directly or indirectly represents the property disposed of.

Modifications etc. (not altering text)

C16 Sch. B1 para. 71 excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7))

Charged property: non-floating charge

72.—(1) The High Court may by order enable the administrator of a company to dispose of property which is subject to a security (other than a floating charge) as if it were not subject to the security.

- (2) An order under sub-paragraph (1) may be made only—
- (a) on the application of the administrator, and
 - (b) where the Court thinks that disposal of the property would be likely to promote the purpose of administration in respect of the company.
- (3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums secured by the security—

Status: Point in time view as at 26/06/2020.

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- (a) the net proceeds of disposal of the property, and
 - (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the Court as the net amount which would be realised on a sale of the property at market value.
- (4) If an order under this paragraph relates to more than one security, application of money under sub-paragraph (3) shall be in the order of the priorities of the securities.
- (5) An administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar before the end of the period of 14 days starting with the date of the order.
- (6) An administrator commits an offence if he fails to comply with sub-paragraph (5) without reasonable excuse.

Modifications etc. (not altering text)

C17 Sch. B1 para. 72 excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7))

Hire-purchase property

- 73.**—(1) The High Court may by order enable the administrator of a company to dispose of goods which are in the possession of the company under a hire-purchase agreement as if all the rights of the owner under the agreement were vested in the company.
- (2) An order under sub-paragraph (1) may be made only—
 - (a) on the application of the administrator, and
 - (b) where the Court thinks that disposal of the goods would be likely to promote the purpose of administration in respect of the company.
 - (3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums payable under the hire-purchase agreement—
 - (a) the net proceeds of disposal of the goods, and
 - (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the Court as the net amount which would be realised on a sale of the goods at market value.
 - (4) An administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar before the end of the period of 14 days starting with the date of the order.
 - (5) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (4).

Modifications etc. (not altering text)

C18 Sch. B1 para. 73 excluded by Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), art.97(1) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 52(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7))

Status: Point in time view as at 26/06/2020.

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Protection for ^{F25}priority] creditor

F25 Word in Sch. B1 para. 74 heading substituted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **31(3)(a)** (with art. 3)

74.—(1) An administrator's statement of proposals under paragraph 50 may not include any action which—

- (a) affects the right of a secured creditor of the company to enforce his security,
- (b) would result in a preferential debt of the company being paid otherwise than in priority to its non-preferential debts, ^{F26}...

[would result in an ordinary preferential debt of the company being paid otherwise than in ^{F27}(bb) priority to its secondary preferential debts,]

- (c) would result in one preferential creditor of the company being paid a smaller proportion of [^{F28}an ordinary preferential debt] than another, ^{F29}[^{F30}...
- (d) would result in one preferential creditor of the company being paid a smaller proportion of a secondary preferential debt than another,][^{F31}or
- (e) if the company is a relevant financial institution (see Article 347A), would result in any non-preferential debt being paid otherwise than in accordance with the rules in Article 150ZZA(2) or (3).]

(2) Sub-paragraph (1) does not apply to—

- (a) action to which the relevant creditor consents,
- (b) a proposal for a voluntary arrangement under Part II of this Order (although this sub-paragraph is without prejudice to Article 17(3)), ^{F32}...
- (c) a proposal for a compromise or arrangement to be sanctioned under [^{F33}Part 26 [^{F34}or 26A] of the Companies Act 2006 (arrangements and reconstructions)].

[^{F35}or

- (d) a proposal for a cross-border merger within the meaning of regulation 2 of the Companies (Cross-Border Mergers) Regulations 2007.]

(3) The reference to a statement of proposals in sub-paragraph (1) includes a reference to a statement as revised or modified.

F26 Word in Sch. B1 para. 74(1)(b) 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), **22(2)** (with art. 3)

F27 Sch. B1 para. 74(1)(bb) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **22(3)** (with art. 3)

F28 Words in Sch. B1 para. 74(1)(c) substituted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **22(4)** (with art. 3)

F29 Word in Sch. B1 para. 74(1)(c) omitted (19.12.2018) by virtue of The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **31(3)(b)** (with art. 3)

F30 Sch. B1 para. 74(1)(d) and word inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), **22(5)** (with art. 3)

F31 Sch. B1 para. 74(1)(e) and word inserted (19.12.2018) by The Banks and Building Societies (Priorities on Insolvency) Order 2018 (S.I. 2018/1244), arts. 1(2), **31(3)(c)** (with art. 3)

F32 Word in Sch. B1 para. 74(2)(b) omitted (15.12.2007) by virtue of Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(2)**

F33 Words in Sch. B1 para. 74(2)(c) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 166(a)** (with arts. 6, 11, 12)

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F34 Words in Sch. B1 para. 74(2)(c) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), s. 49(1), **Sch. 9 para. 10(3)** (with ss. 2(2), 5(2))

F35 Sch. B1 para. 74(2)(d) and preceding word inserted (15.12.2007) by [Companies \(Cross-Border Mergers\) Regulations 2007](#) (S.I. 2007/2974), **reg. 66(3)**

Modifications etc. (not altering text)

C19 [Sch. B1 para. 74](#) modified by S.R. 1995/225, Sch. 2 para. 35 (as amended (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014](#) (S.I. 2014/3486), arts. 1(2), **25** (with art. 3))

Challenge to administrator's conduct of company

75.—(1) A creditor or member of a company in administration may apply to the High Court claiming that—

- (a) the administrator is acting or has acted so as unfairly to harm the interests of the applicant (whether alone or in common with some or all other members or creditors), or
- (b) the administrator proposes to act in a way which would unfairly harm the interests of the applicant (whether alone or in common with some or all other members or creditors).

(2) A creditor or member of a company in administration may apply to the Court claiming that the administrator is not performing his functions as quickly or as efficiently as is reasonably practicable.

(3) The Court may—

- (a) grant relief;
- (b) dismiss the application;
- (c) adjourn the hearing conditionally or unconditionally;
- (d) make an interim order;
- (e) make any other order it thinks appropriate.

(4) In particular, an order under this paragraph may—

- (a) regulate the administrator's exercise of his functions;
- (b) require the administrator to do or not do a specified thing;
- (c) require a creditors' meeting to be held for a specified purpose;
- (d) provide for the appointment of an administrator to cease to have effect;
- (e) make consequential provision.

(5) An order may be made on a claim under sub-paragraph (1) whether or not the action complained of—

- (a) is within the administrator's powers under this Schedule;
- (b) was taken in reliance on an order under paragraph 72 or 73.

(6) An order may not be made under this paragraph if it would impede or prevent the implementation of—

- (a) a voluntary arrangement approved under Part II,
- (b) a compromise or arrangement sanctioned under [^{F36}Part 26 [^{F37}or 26A] of the Companies Act 2006 (arrangements and reconstructions)], ^{F38} . . .

[a cross-border merger within the meaning of regulation 2 of the Companies (Cross-Border ^{F39}(ba) Mergers) Regulations 2007, or]

Status: Point in time view as at 26/06/2020.

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- (c) proposals or a revision approved under paragraph 54 or 55 more than 28 days before the day on which the application for the order under this paragraph is made.

- F36** Words in Sch. B1 para. 75(6)(b) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 166(b)** (with arts. 6, 11, 12)
- F37** Words in Sch. B1 para. 75(6)(b) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 10(4)** (with ss. 2(2), 5(2))
- F38** Word in Sch. B1 para. 75(6)(b) omitted (15.12.2007) by virtue of Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(4)**
- F39** Sch. B1 para. 75(6)(ba) inserted (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 66(5)**

Modifications etc. (not altering text)

- C20** Sch. B1 para. 75(1)(a)(b) modified by Financial Services and Markets Act 2000 (c. 8), s. 362(4A)(b) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 60(6) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**))
- C21** Sch. B1 para. 75(1)(a)(b) modified by Financial Services and Markets Act 2000 (c. 8), s. 362(4A)(b) (as subst. (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 60(6) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**))

Misfeasance

- 76.—**(1) The High Court may examine the conduct of a person who—
- (a) is or purports to be the administrator of a company, or
 - (b) has been or has purported to be the administrator of a company.
- (2) An examination under this paragraph may be held only on the application of—
- (a) the official receiver,
 - (b) the administrator of the company,
 - (c) the liquidator of the company,
 - (d) a creditor of the company, or
 - (e) a contributory of the company.
- (3) An application under sub-paragraph (2) must allege that the administrator—
- (a) has misapplied or retained money or other property of the company,
 - (b) has become accountable for money or other property of the company,
 - (c) has breached a fiduciary or other duty in relation to the company, or
 - (d) has been guilty of misfeasance.
- (4) On an examination under this paragraph into a person's conduct the Court may order him—
- (a) to repay, restore or account for money or property;
 - (b) to pay interest;
 - (c) to contribute a sum to the company's property by way of compensation for breach of duty or misfeasance.
- (5) In sub-paragraph (3) “administrator” includes a person who purports or has purported to be a company's administrator.
- (6) An application under sub-paragraph (2) may be made in respect of an administrator who has been discharged under paragraph 99 only with the permission of the Court.

Status: Point in time view as at 26/06/2020.

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ENDING ADMINISTRATION

Automatic end of administration

77.—(1) The appointment of an administrator shall cease to have effect at the end of the period of one year beginning with the date on which it takes effect.

(2) But—

- (a) on the application of an administrator the High Court may by order extend his term of office for a specified period, and
- (b) an administrator's term of office may be extended for a specified period not exceeding 6 months by consent.

78.—(1) An order of the High Court under paragraph 77—

- (a) may be made in respect of an administrator whose term of office has already been extended by order or by consent, but
- (b) may not be made after the expiry of the administrator's term of office.

(2) Where an order is made under paragraph 77 the administrator shall as soon as is reasonably practicable notify the registrar.

(3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

79.—(1) In paragraph 77(2)(b) “consent” means consent of—

- (a) each secured creditor of the company, and
- (b) if the company has unsecured debts, creditors whose debts amount to more than 50 per cent. of the company's unsecured debts, disregarding debts of any creditor who does not respond to an invitation to give or withhold consent.

(2) But where the administrator has made a statement under paragraph 53(1)(b) “consent” means—

- (a) consent of each secured creditor of the company, or
- (b) if the administrator thinks that a distribution may be made to preferential creditors, consent of—
 - (i) each secured creditor of the company, and
 - (ii) preferential creditors whose debts amount to more than 50 per cent. of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold consent.

(3) Consent for the purposes of paragraph 77(2)(b) may be—

- (a) written, or
- (b) signified at a creditors' meeting.

(4) An administrator's term of office—

- (a) may be extended by consent only once,
- (b) may not be extended by consent after extension by order of the High Court, and
- (c) may not be extended by consent after expiry.

(5) Where an administrator's term of office is extended by consent he shall as soon as is reasonably practicable—

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- (a) file notice of the extension with the Court, and
 - (b) notify the registrar.
- (6) An administrator who fails without reasonable excuse to comply with sub-paragraph (5) commits an offence.

Court ending administration on application of administrator

- 80.**—(1) On the application of the administrator of a company the High Court may provide for the appointment of an administrator of the company to cease to have effect from a specified time.
- (2) The administrator of a company shall make an application under this paragraph if—
 - (a) he thinks the purpose of administration cannot be achieved in relation to the company,
 - (b) he thinks the company should not have entered administration, or
 - (c) a creditors' meeting requires him to make an application under this paragraph.
 - (3) The administrator of a company shall make an application under this paragraph if—
 - (a) the administration is pursuant to an administration order, and
 - (b) the administrator thinks that the purpose of administration has been sufficiently achieved in relation to the company.
 - (4) On an application under this paragraph the Court may—
 - (a) adjourn the hearing conditionally or unconditionally;
 - (b) dismiss the application;
 - (c) make an interim order;
 - (d) make any order it thinks appropriate (whether in addition to, in consequence of or instead of the order applied for).

Termination of administration where objective achieved

- 81.**—(1) This paragraph applies where an administrator of a company is appointed under paragraph 15 or 23.
- (2) If the administrator thinks that the purpose of administration has been sufficiently achieved in relation to the company he may file a notice in the prescribed form—
 - (a) with the High Court, and
 - (b) with the registrar.
 - (3) The administrator's appointment shall cease to have effect when the requirements of sub-paragraph (2) are satisfied.
 - (4) Where the administrator files a notice he shall within the prescribed period send a copy to every creditor of the company of whose claim and address he is aware.
 - (5) The rules may provide that the administrator is taken to have complied with sub-paragraph (4) if before the end of the prescribed period he publishes in the prescribed manner a notice undertaking to provide a copy of the notice under sub-paragraph (2) to any creditor of the company who applies in writing to a specified address.
 - (6) An administrator who fails without reasonable excuse to comply with sub-paragraph (4) commits an offence.

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Court ending administration on application of creditor

82.—(1) On the application of a creditor of a company the High Court may provide for the appointment of an administrator of the company to cease to have effect at a specified time.

- (2) An application under this paragraph must allege an improper motive—
- (a) in the case of an administrator appointed by administration order, on the part of the applicant for the order, or
 - (b) in any other case, on the part of the person who appointed the administrator.
- (3) On an application under this paragraph the Court may—
- (a) adjourn the hearing conditionally or unconditionally;
 - (b) dismiss the application;
 - (c) make an interim order;
 - (d) make any order it thinks appropriate (whether in addition to, in consequence of or instead of the order applied for).

Public interest winding-up

83.—(1) This paragraph applies where a winding-up order is made for the winding up of a company in administration on a petition presented under—

- (a) Article 104A (public interest),
- (b) Article 104B (SEs), or
- (c) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by [^{F40}Financial Conduct Authority or the Prudential Regulation Authority]).

(2) This paragraph also applies where a provisional liquidator of a company in administration is appointed following the presentation of a petition under any of the provisions listed in sub-paragraph (1).

- (3) The High Court shall order—
- (a) that the appointment of the administrator shall cease to have effect, or
 - (b) that the appointment of the administrator shall continue to have effect.
- (4) If the Court makes an order under sub-paragraph (3)(b) it may also—
- (a) specify which of the powers under this Schedule are to be exercisable by the administrator, and
 - (b) order that this Schedule shall have effect in relation to the administrator with specified modifications.

F40 Words in [Sch. B1 para. 83\(1\)\(c\)](#) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 7\(d\)](#)

Moving from administration to creditors' voluntary liquidation

84.—(1) This paragraph applies where the administrator of a company thinks—

- (a) that the total amount which each secured creditor of the company is likely to receive has been paid to him or set aside for him, and
- (b) that a distribution will be made to unsecured creditors of the company (if there are any).

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- (2) The administrator may send to the registrar a notice that this paragraph applies.
- (3) On receipt of a notice under sub-paragraph (2) the registrar shall register it.
- (4) If an administrator sends a notice under sub-paragraph (2) he shall as soon as is reasonably practicable—
 - (a) file a copy of the notice with the High Court, and
 - (b) send a copy of the notice to each creditor of whose claim and address he is aware.
- (5) On the registration of a notice under sub-paragraph (2)—
 - (a) the appointment of an administrator in respect of the company shall cease to have effect, and
 - (b) the company shall be wound up as if a resolution for voluntary winding up under Article 70 were passed on the day on which the notice is registered.
- (6) The liquidator for the purposes of the winding up shall be—
 - (a) a person nominated by the creditors of the company in the prescribed manner and within the prescribed period, or
 - (b) if no person is nominated under paragraph (a), the administrator.
- (7) In the application of Part V to a winding up by virtue of this paragraph—
 - (a) Article 71 shall not apply,
 - (b) Article 72 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (2),
 - (c) Article 75 does not apply,
 - (d) Articles 84, 85 and 86 shall not apply,
 - (e) Article 109 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (2), and
 - (f) any creditors' committee which is in existence immediately before the company ceases to be in administration shall continue in existence after that time as if appointed as a liquidation committee under Article 87.

Moving from administration to dissolution

85.—(1) If the administrator of a company thinks that the company has no property which might permit a distribution to its creditors, he shall send a notice to that effect to the registrar.

[
^{F41}(1A) Sub-paragraph (1B) applies where, immediately before the administrator sends the notice, there are EU insolvency proceedings open in respect of the company in one or more member States.

- (1B) The administrator must send to the registrar, with the notice, a statement—
- (a) identifying those proceedings,
 - (b) identifying the member State liquidator appointed in each of those proceedings, and
 - (c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved.]
- (2) The High Court may on the application of the administrator of a company disapply sub-paragraph (1) in respect of the company.

Status: Point in time view as at 26/06/2020.

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(3) On receipt of a notice under sub-paragraph (1) [^{F42}and any statement under sub-paragraph (1B)] the registrar shall register it [^{F43}or them].

(4) On the registration of a notice in respect of a company under sub-paragraph (1) the appointment of an administrator of the company shall cease to have effect.

(5) If an administrator sends a notice under sub-paragraph (1) he shall as soon as is reasonably practicable—

(a) file a copy of the notice with the Court, and

(b) send a copy of the notice to each creditor of whose claim and address he is aware.

(6) At the end of the period of 3 months beginning with the date of registration of a notice in respect of a company under sub-paragraph (1) the company is deemed to be dissolved [^{F44}(except where sub-paragraph (6A) applies)].

[^{F45}(6A) This sub-paragraph applies where a statement under sub-paragraph (1B) indicates that a member State liquidator does not consent to the company being dissolved..

(6B) Where sub-paragraph (6A) applies, the company is deemed to be dissolved at the end of the period of three months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

(a) all proceedings identified under sub-paragraph (1B) were closed; or

(b) every member State liquidator appointed in those proceedings consented to the company being dissolved.]

(7) On an application in respect of a company by the administrator or another interested person the Court may—

(a) extend the period specified in sub-paragraph (6) [^{F46}or 6(B)],

(b) suspend that period, or

(c) disapply sub-paragraph (6) [^{F47}or 6(B)].

(8) Where an order is made under sub-paragraph (7) in respect of a company the administrator shall as soon as is reasonably practicable notify the registrar.

(9) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

F41 Sch. B1 para. 85(1A)(1B) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(1)** (with reg. 3)

F42 Words in Sch. B1 para. 85(3) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(2)(a)** (with reg. 3)

F43 Words in Sch. B1 para. 85(3) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(2)(b)** (with reg. 3)

F44 Words in Sch. B1 para. 85(6) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(3)** (with reg. 3)

F45 Sch. B1 para. 85(6A)(6B) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(4)** (with reg. 3)

F46 Words in Sch. B1 para. 85(7)(a) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(5)** (with reg. 3)

F47 Words in Sch. B1 para. 85(7)(c) inserted (26.6.2017) by The Insolvency Amendment (EU 2015/848) Regulations 2017 (S.I. 2017/702), reg. 1, **Sch. para. 119(5)** (with reg. 3)

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Discharge of administration order where administration ends

86.—(1) This paragraph applies where—

- (a) the High Court makes an order under this Schedule providing for the appointment of an administrator of a company to cease to have effect, and
 - (b) the administrator was appointed by administration order.
- (2) The Court shall discharge the administration order.

Notice to registrar where administration ends

87.—(1) This paragraph applies where the High Court makes an order under this Schedule providing for the appointment of an administrator to cease to have effect.

(2) The administrator shall send a copy of the order to the registrar within the period of 14 days beginning with the date of the order.

(3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

REPLACING ADMINISTRATOR

Resignation of administrator

88.—(1) An administrator may resign only in prescribed circumstances.

(2) Where an administrator may resign he may do so only—

- (a) in the case of an administrator appointed by administration order, by notice in writing to the High Court,
- (b) in the case of an administrator appointed under paragraph 15, by notice in writing to the holder of the floating charge by virtue of which the appointment was made,
- (c) in the case of an administrator appointed under paragraph 23(1), by notice in writing to the company, or
- (d) in the case of an administrator appointed under paragraph 23(2), by notice in writing to the directors of the company.

Removal of administrator from office

89. The High Court may by order remove an administrator from office.

Administrator ceasing to be qualified

90.—(1) The administrator of a company shall vacate office if he ceases to be qualified to act as an insolvency practitioner in relation to the company.

(2) Where an administrator vacates office by virtue of sub-paragraph (1) he shall give notice in writing—

- (a) in the case of an administrator appointed by administration order, to the High Court,
- (b) in the case of an administrator appointed under paragraph 15, to the holder of the floating charge by virtue of which the appointment was made,
- (c) in the case of an administrator appointed under paragraph 23(1), to the company, or

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- (d) in the case of an administrator appointed under paragraph 23(2), to the directors of the company.
- (3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

Supplying vacancy in office of administrator

91. Paragraphs 92 to 96 apply where an administrator—

- (a) dies,
- (b) resigns,
- (c) is removed from office under paragraph 89, or
- (d) vacates office under paragraph 90.

92.—(1) Where the administrator was appointed by administration order, the High Court may replace the administrator on an application under this sub-paragraph made by—

- (a) a creditors' committee of the company,
- (b) the company,
- (c) the directors of the company,
- (d) one or more creditors of the company, or
- (e) where more than one person was appointed to act jointly or concurrently as the administrator, any of those persons who remains in office.

(2) But an application may be made in reliance on sub-paragraph (1)(b) to (d) only where—

- (a) there is no creditors' committee of the company,
- (b) the Court is satisfied that the creditors' committee or a remaining administrator is not taking reasonable steps to make a replacement, or
- (c) the Court is satisfied that for another reason it is right for the application to be made.

93. Where the administrator was appointed under paragraph 15 the holder of the floating charge by virtue of which the appointment was made may replace the administrator.

94.—(1) Where the administrator was appointed under paragraph 23(1) by the company it may replace the administrator.

(2) A replacement under this paragraph may be made only—

- (a) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property, or
- (b) where consent is withheld, with the permission of the High Court.

95.—(1) Where the administrator was appointed under paragraph 23(2) the directors of the company may replace the administrator.

(2) A replacement under this paragraph may be made only—

- (a) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property, or
- (b) where consent is withheld, with the permission of the High Court.

96. The High Court may replace an administrator on the application of a person listed in paragraph 92(1) if the Court—

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- (a) is satisfied that a person who is entitled to replace the administrator under any of paragraphs 93 to 95 is not taking reasonable steps to make a replacement, or
- (b) that for another reason it is right for the Court to make the replacement.

Substitution of administrator: competing floating charge-holder

97.—(1) This paragraph applies where an administrator of a company is appointed under paragraph 15 by the holder of a qualifying floating charge in respect of the company's property.

(2) The holder of a prior qualifying floating charge in respect of the company's property may apply to the High Court for the administrator to be replaced by an administrator nominated by the holder of the prior floating charge.

- (3) One floating charge is prior to another for the purposes of this paragraph if—
 - (a) it was created first, or
 - (b) it is to be treated as having priority in accordance with an agreement to which the holder of each floating charge was party.

Substitution of administrator appointed by company or directors: creditors' meeting

98.—(1) This paragraph applies where—

- (a) an administrator of a company is appointed by a company or directors under paragraph 23, and
 - (b) there is no holder of a qualifying floating charge in respect of the company's property.
- (2) A creditors' meeting may replace the administrator.
- (3) A creditor's meeting may act under sub-paragraph (2) only if the new administrator's written consent to act is presented to the meeting before the replacement is made.

Vacation of office: discharge from liability

99.—(1) Where a person ceases to be the administrator of a company (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect) he is discharged from liability in respect of any action of his as administrator.

- (2) The discharge provided by sub-paragraph (1) takes effect—
 - (a) in the case of an administrator who dies, on the filing with the High Court of notice of his death,
 - (b) in the case of an administrator appointed under paragraph 15 or 23, at a time appointed by resolution of the creditors' committee or, if there is no committee, by resolution of the creditors, or
 - (c) in any case, at a time specified by the Court.
- (3) For the purpose of the application of sub-paragraph (2)(b) in a case where the administrator has made a statement under paragraph 53(1)(b), a resolution shall be taken as passed if (and only if) passed with the approval of—
 - (a) each secured creditor of the company, or
 - (b) if the administrator has made a distribution to preferential creditors or thinks that a distribution may be made to preferential creditors—
 - (i) each secured creditor of the company, and

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- (ii) preferential creditors whose debts amount to more than 50 per cent. of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

(4) Discharge—

- (a) applies to liability accrued before the discharge takes effect, and
- (b) does not prevent the exercise of the High Court's powers under paragraph 76.

Vacation of office: charges and liabilities

100.—(1) This paragraph applies where a person ceases to be the administrator of a company (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect).

(2) In this paragraph—

- “the former administrator” means the person referred to in sub-paragraph (1), and
- “cessation” means the time when he ceases to be the company's administrator.

(3) The former administrator's remuneration and expenses shall be—

- (a) charged on and payable out of property of which he had custody or control immediately before cessation, and
- (b) payable in priority to any security to which paragraph 71 applies.

(4) A sum payable in respect of a debt or liability arising out of a contract entered into by the former administrator or a predecessor before cessation shall be—

- (a) charged on and payable out of property of which the former administrator had custody or control immediately before cessation, and
- (b) payable in priority to any charge arising under sub-paragraph (3).

(5) Sub-paragraph (4) shall apply to a liability arising under a contract of employment which was adopted by the former administrator or a predecessor before cessation; and for that purpose—

- (a) action taken within the period of 14 days after an administrator's appointment shall not be taken to amount or contribute to the adoption of a contract,
- (b) no account shall be taken of a liability which arises, or in so far as it arises, by reference to anything which is done or which occurs before the adoption of the contract of employment, and
- (c) no account shall be taken of a liability to make a payment other than wages or salary.

(6) In sub-paragraph (5)(c) “wages or salary” includes—

- (a) a sum payable in respect of a period of holiday (for which purpose the sum shall be treated as relating to the period by reference to which the entitlement to holiday accrued),
- (b) a sum payable in respect of a period of absence through illness or other good cause,
- (c) a sum payable in lieu of holiday,

^{F48}(d) and

- (e) a contribution to an occupational pension scheme.

<p>F48 Sch. B1 para. 100(6)(d) repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 10(4), 28(2), Sch. 4; S.R. 2016/203, art. 2</p>

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Modifications etc. (not altering text)

C22 Sch. B1 para. 100(3) applied by Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979), **reg. 14(5)(a)(iv)** (as substituted (1.10.2009) by Financial Markets and Insolvency (Settlement Finality) (Amendment) Regulations 2009 (S.I. 2009/1972), **reg. 4(d)(iii)**)

GENERAL

Joint and concurrent administrators

101.—(1) In this Schedule—

- (a) a reference to the appointment of an administrator of a company includes a reference to the appointment of a number of persons to act jointly or concurrently as the administrator of a company, and
 - (b) a reference to the appointment of a person as administrator of a company includes a reference to the appointment of a person as one of a number of persons to act jointly or concurrently as the administrator of a company.
- (2) The appointment of a number of persons to act as administrator of a company must specify—
- (a) which functions (if any) are to be exercised by the persons appointed acting jointly, and
 - (b) which functions (if any) are to be exercised by any or all of the persons appointed.

102.—(1) This paragraph applies where two or more persons are appointed to act jointly as the administrator of a company.

- (2) A reference to the administrator of the company is a reference to those persons acting jointly.
- (3) But a reference to the administrator of a company in paragraphs 88 to 100 of this Schedule is a reference to any or all of the persons appointed to act jointly.
- (4) Where an offence of omission is committed by the administrator, each of the persons appointed to act jointly—
 - (a) commits the offence, and
 - (b) may be proceeded against and punished individually.
- (5) The reference in paragraph 46(1)(a) to the name of the administrator is a reference to the name of each of the persons appointed to act jointly.
- (6) Where persons are appointed to act jointly in respect of only some of the functions of the administrator of a company, this paragraph applies only in relation to those functions.

103.—(1) This paragraph applies where two or more persons are appointed to act concurrently as the administrator of a company.

- (2) A reference to the administrator of a company in this Schedule is a reference to any of the persons appointed (or any combination of them).

104.—(1) Where a company is in administration, a person may be appointed to act as administrator jointly or concurrently with the person or persons acting as the administrator of the company.

- (2) Where a company entered administration by administration order, an appointment under subparagraph (1) must be made by the High Court on the application of—
 - (a) a person or group listed in paragraph 13(1)(a) to (f), or
 - (b) the person or persons acting as the administrator of the company.

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- (3) Where a company entered administration by virtue of an appointment under paragraph 15, an appointment under sub-paragraph (1) must be made by—
- (a) the holder of the floating charge by virtue of which the appointment was made, or
 - (b) the High Court on the application of the person or persons acting as the administrator of the company.
- (4) Where a company entered administration by virtue of an appointment under paragraph 23(1), an appointment under sub-paragraph (1) must be made either by the High Court on the application of the person or persons acting as the administrator of the company or—
- (a) by the company, and
 - (b) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property or, where consent is withheld, with the permission of the Court.
- (5) Where a company entered administration by virtue of an appointment under paragraph 23(2), an appointment under sub-paragraph (1) must be made either by the Court on the application of the person or persons acting as the administrator of the company or—
- (a) by the directors of the company, and
 - (b) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property or, where consent is withheld, with the permission of the Court.
- (6) An appointment under sub-paragraph (1) may be made only with the consent of the person or persons acting as the administrator of the company.

Presumption of validity

105. An act of the administrator of a company is valid in spite of a defect in his appointment or qualification.

Majority decision of directors

106. A reference in this Schedule to something done by the directors of a company includes a reference to the same thing done by a majority of the directors of a company.

Penalties

107.—(1) A person who is guilty of an offence under this Schedule is liable to a fine (in accordance with Article 373 and Schedule 7).

(2) A person who is guilty of an offence under any of the following paragraphs of this Schedule is liable to a daily default fine (in accordance with Article 373 and Schedule 7)—

- (a) paragraph 21,
- (b) paragraph 33,
- (c) paragraph 47,
- (d) paragraph 49,
- (e) paragraph 50,
- (f) paragraph 52,
- (g) paragraph 54,
- (h) paragraph 55,
- (i) paragraph 57,
- (j) paragraph 72,

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- (k) paragraph 73,
- (l) paragraph 78,
- (m) paragraph 79,
- (n) paragraph 81,
- (o) paragraph 85,
- (p) paragraph 87, and
- (q) paragraph 90.

Extension of time limit

108.—(1) Where a provision of this Schedule provides that a period may be varied in accordance with this paragraph, the period may be varied in respect of a company—

- (a) by the High Court, and
- (b) on the application of the administrator.

(2) A time period may be extended in respect of a company under this paragraph—

- (a) more than once, and
- (b) after expiry.

109.—(1) A period specified in paragraph 50(5), 51(1)(b) or 52(2) may be varied in respect of a company by the administrator with consent.

(2) In sub-paragraph (1) “consent” means consent of—

- (a) each secured creditor of the company, and
- (b) if the company has unsecured debts, creditors whose debts amount to more than 50 per cent. of the company's unsecured debts, disregarding debts of any creditor who does not respond to an invitation to give or withhold consent.

(3) But where the administrator has made a statement under paragraph 53(1)(b) “consent” means—

- (a) consent of each secured creditor of the company, or
- (b) if the administrator thinks that a distribution may be made to preferential creditors, consent of—
 - (i) each secured creditor of the company, and
 - (ii) preferential creditors whose debts amount to more than 50 per cent. of the total preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold consent.

(4) Consent for the purposes of sub-paragraph (1) may be—

- (a) written, or
- (b) signified at a creditors' meeting.

(5) The power to extend under sub-paragraph (1)—

- (a) may be exercised in respect of a period only once,
- (b) may not be used to extend a period by more than 28 days,
- (c) may not be used to extend a period which has been extended by the High Court, and
- (d) may not be used to extend a period after expiry.

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110. Where a period is extended under paragraph 108 or 109, a reference to the period shall be taken as a reference to the period as extended.

Amendment of provision about time

- 111.—**(1) The Department may by order amend a provision of this Schedule which—
- (a) requires anything to be done within a specified period of time,
 - (b) prevents anything from being done after a specified time, or
 - (c) requires a specified minimum period of notice to be given.
- (2) An order under this paragraph shall be subject to negative resolution.]

SCHEDULE 1

Articles 27, 52.

POWERS OF ADMINISTRATOR OR ADMINISTRATIVE RECEIVER

1. Power to take possession of, collect and get in the property of the company and, for that purpose, to take such proceedings as may seem to him expedient.

2. Power to sell or otherwise dispose of the company's property, including the goodwill and book debts of any business.

3. [^{F49}Without prejudice to Article 28 or 30 of the Property (Northern Ireland) Order 1997,] power to make, on such terms and conditions as he may think proper, a sub#fee farm grant of land or any part thereof, or a sub#lease of land or any part thereof with a nominal reversion (and to sell the rent or reversion), where such sub#fee farm grant or sub#lease amounts in substance to a sale and he has satisfied himself that it is the most appropriate method of disposing of the land.

F49 Words in [Sch. 1 para. 3](#) inserted (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016](#) (c. 2), s. 28(2), [Sch. 3 para. 19](#); S.R. 2016/203, art. 2

4. Power to raise or borrow money and grant security therefor over the property of the company.

5. Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.

6. Power to bring or defend any action or other legal proceedings in the name and on behalf of the company.

7. Power to refer to arbitration any question affecting the company.

8. Power to effect and maintain insurances in respect of the business and property of the company.

9. Power to use the company's seal.

10. Power to do all acts and to execute in the name and on behalf of the company any deed, receipt or other document.

11. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company.

12. Power to appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent and power to employ and dismiss employees.

13. Power to do all such things (including the carrying out of works) as may be necessary for the realisation of the property of the company.

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14. Power to make any payment which is necessary or incidental to the performance of his functions.

15. Power to carry on the business of the company.

16. Power to establish subsidiaries of the company.

17. Power to transfer to subsidiaries of the company the whole or any part of the business and property of the company.

18. Power to grant or accept a surrender of a lease or tenancy of any of the property of the company, and to take a lease or tenancy of any property required or convenient for the business of the company.

19. Power to make any arrangement or compromise on behalf of the company.

20 ^{F50}. Power to call up any uncalled capital of the company.

F50 mod. by SR 2004/307

21. Power to rank and claim in the bankruptcy, insolvency or liquidation of any person indebted to the company and to receive dividends, and to accede to trust deeds for the creditors of any such person.

22. Power to present or defend a petition for the winding up of the company.

23. Power to change the situation of the company's registered office.

24. Power to do all other things incidental to the exercise of the foregoing powers.

[^{F51}SCHEDULE 1A

EXCEPTIONS TO PROHIBITION ON APPOINTMENT OF ADMINISTRATIVE RECEIVER: SUPPLEMENTARY PROVISIONS

F51 Sch. 1A inserted (27.3.2006) by *Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))*, arts. 1(3), 5(2), Sch. 3 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

Capital market arrangement

- 1.—(1) For the purposes of Article 59B an arrangement is a capital market arrangement if—
- (a) it involves a grant of security to a person holding it as trustee for a person who holds a capital market investment issued by a party to the arrangement, or
 - (b) it involves a grant of security to—
 - (i) a party to the arrangement who issues a capital market investment, or
 - (ii) a person who holds the security as trustee for a party to the arrangement in connection with the issue of a capital market investment, or
 - (c) it involves a grant of security to a person who holds the security as trustee for a party to the arrangement who agrees to provide finance to another party, or
 - (d) at least one party guarantees the performance of obligations of another party, or
 - (e) at least one party provides security in respect of the performance of obligations of another party, or

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- (f) the arrangement involves an investment of a kind described in articles 83 to 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (options, futures and contracts for differences).
- (2) For the purposes of sub-paragraph (1)—
- (a) a reference to holding as trustee includes a reference to holding as nominee or agent,
 - (b) a reference to holding for a person who holds a capital market investment includes a reference to holding for a number of persons at least one of whom holds a capital market investment, and
 - (c) a person holds a capital market investment if he has a legal or beneficial interest in it; and
 - (d) the reference to the provision of finance includes the provision of an indemnity.
- (3) In Article 59B(1) and this paragraph “party” to an arrangement includes a party to an agreement which—
- (a) forms part of the arrangement,
 - (b) provides for the raising of finance as part of the arrangement, or
 - (c) is necessary for the purposes of implementing the arrangement.

Capital market investment

- 2.—(1) For the purposes of Article 59B an investment is a capital market investment if it—
- (a) is within article 77 [^{F52}or 77A] of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (debt instruments), and
 - (b) is rated, listed or traded or designed to be rated, listed or traded.
- (2) In sub-paragraph (1)—
- “rated” means rated for the purposes of investment by an internationally recognised rating agency,
- “listed” means admitted to the official list within the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation), and
- “traded” means admitted to trading on a market established under the rules of a recognised investment exchange or on a foreign market.
- (3) In sub-paragraph (2)—
- “recognised investment exchange” has the meaning given by section 285 of the Financial Services and Markets Act 2000 (recognised investment exchange), and
- “foreign market” has the same meaning as “relevant market” in article 67(2) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (S.I. 2001/1335) (foreign markets).

F52 Words in Sch. 1A para. 2(1)(a) inserted (24.2.2010) by Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2010 (S.I. 2010/86), art. 4, Sch. para. 4(a)

- 3.—(1) An investment is also a capital market investment for the purposes of Article 59B if it consists of a bond or commercial paper issued to one or more of the following—
- (a) an investment professional within the meaning of article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001,
 - (b) a person who is, when the agreement mentioned in Article 59B(1) is entered into, a certified high net worth individual in relation to a communication within the meaning of article 48(2) of that order,

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- (c) a person to whom article 49(2) of that order applies (high net worth company, &c.),
 - (d) a person who is, when the agreement mentioned in Article 59B(1) is entered into, a certified sophisticated investor in relation to a communication within the meaning of article 50(1) of that order, and
 - (e) a person in a State other than the United Kingdom who under the law of that State is not prohibited from investing in bonds or commercial paper.
- (2) In sub-paragraph (1)—
- “bond” shall be construed in accordance with article 77 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) [^{F53}, and includes any instrument falling within article 77A of that Order], and
- “commercial paper” has the meaning given by article 9(3) of that order.
- (3) For the purposes of sub-paragraph (1)—
- (a) in applying article 19(5) of the Financial Promotion Order for the purposes of sub-paragraph (1)(a)—
 - (i) in article 19(5)(b), ignore the words after “exempt person”,
 - (ii) in article 19(5)(c)(i), for the words from “the controlled activity” to the end substitute a controlled activity, and
 - (iii) in article 19(5)(e) ignore the words from “where the communication” to the end, and
 - (b) in applying article 49(2) of that order for the purposes of sub-paragraph (1)(c), ignore Article 49(2)(e).

F53 Sch. 1A para. 3(2): words in definition of “bond” inserted (24.2.2010) by Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2010 (S.I. 2010/86), art. 4, Sch. para. 4(b)

“Agreement”

4. or the purposes of Articles 59B and 59F and this Schedule “agreement” includes an agreement or undertaking effected by—
- (a) contract,
 - (b) deed, or
 - (c) any other instrument intended to have effect in accordance with the law of Northern Ireland or another jurisdiction.

Debt

5. the debt of at least £50 million referred to in Article 59B(1)(a) or 59F(2)(a)—
- (a) may be incurred at any time during the life of the capital market arrangement or financed project, and
 - (b) may be expressed wholly or partly in foreign currency (in which case the sterling equivalent shall be calculated as at the time when the arrangement is entered into or the project begins).

Step-in rights

- 6.—(1) For the purposes of Articles 59C to 59F a project has “step-in rights” if a person who provides finance in connection with the project has a conditional entitlement under an agreement to—

Status: Point in time view as at 26/06/2020.

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- (a) assume sole or principal responsibility under an agreement for carrying out all or part of the project, or
 - (b) make arrangements for carrying out all or part of the project.
- (2) In sub-paragraph (1) a reference to the provision of finance includes a reference to the provision of an indemnity.

Project company

7.—(1) For the purposes of Articles 59C to 59F a company is a “project company” of a project if—

- (a) it holds property for the purpose of the project,
- (b) it has sole or principal responsibility under an agreement for carrying out all or part of the project,
- (c) it is one of a number of companies which together carry out the project,
- (d) it has the purpose of supplying finance to enable the project to be carried out, or
- (e) it is the holding company of a company within any of paragraphs (a) to (d).

(2) But a company is not a “project company” of a project if—

- (a) it performs a function within sub-paragraph (1)(a) to (d) or is within sub-paragraph (1)(e), but
- (b) it also performs a function which is not—
 - (i) within sub-paragraph (1)(a) to (d),
 - (ii) related to a function within sub-paragraph (1)(a) to (d), or
 - (iii) related to the project.

(3) For the purposes of this paragraph a company carries out all or part of a project whether or not it acts wholly or partly through agents.

“Resources”

8. In Article 59C “resources” includes—

- (a) funds (including payment for the provision of services or facilities),
- (b) assets,
- (c) professional skill,
- (d) the grant of a concession or franchise, and
- (e) any other commercial resource.

“Public body”

9.—(1) In Article 59C “public body” means—

- (a) a body which exercises public functions,
- (b) a body specified for the purposes of this paragraph by the Department, and
- (c) a body within a class specified for the purposes of this paragraph by the Department.

(2) A specification under sub-paragraph (1) may be—

- (a) general, or
- (b) for the purpose of the application of Article 59C to a specified case.

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Regulated business

- 10.**—(1) For the purposes of Article 59D a business is regulated if it is carried on—
- (a) in reliance on a licence under Article 8 of the Gas (Northern Ireland) Order 1996 (NI 2) (licences authorising the supply of gas, etc.),
 - (b) in reliance on a licence granted by virtue of Article 40 of the Energy (Northern Ireland) Order 2003 (NI 6) (power to prescribe additional licensable activity),
 - (c) in reliance on a licence under Article 10 of the Electricity (Northern Ireland) Order 1992 (NI 1) (supply of electricity),
 - (d) by a universal service provider within the meaning [^{F54}of Part 3 of the Postal Services Act 2011 (c.5)],
 - [^{F55}(e) by a Post Office company within the meaning of Part 1 of that Act; or]
 - (f) ^{F56}
 - (g) in reliance of a European licence granted pursuant to a provision contained in any instrument made for the purpose of implementing Council Directive 1995/18/EC dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive 2001/13/EC dated 26th February 2001 and Directive 2004/49/EC dated 29th April 2004, both of the European Parliament and of the Council, or pursuant to any action taken by an EEA State for that purpose .

(2) For the purposes of Article 59D a business is also regulated to the extent that it consists in the provision of a public electronic communications network or a public electronic communications service.

[^{F57}(3) In sub-paragraph (1)(g), an “EEA State” means a member State, Norway, Iceland or Liechtenstein.]

F54	Words in Sch. 1A para. 10(1)(d) 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(3)(a)
F55	Sch. 1A para. 10(1)(e) 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(3)(b)
F56	Sch. 1A para. 10(1)(f) repealed (1.10.2011) by Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085), art. 5, Sch. 1 para. 23(3)(c), Sch. 2
F57	Sch. 1A para. 10(3) added (3.1.2006) by virtue of Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2005 (S.R. 2005/537), regs. 1(1), 45, Sch. 5 para. 3(c)

“Person”

11. A reference to a person in this Schedule includes a reference to a partnership or another unincorporated group of persons.]

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SCHEDULE 2

Articles 140, 142.

POWERS OF LIQUIDATOR IN A WINDING UP

PART I

POWERS EXERCISABLE WITH SANCTION

1. Power to pay any class of creditors in full.

2. Power to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the company, or whereby the company may be rendered liable.

^{F58}3.

F58 Sch. 2 para. 3 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 7(2), 28(2), Sch. 4 (with Sch. 2 para. 4); S.R. 2016/203, art. 2

[^{F59}3A. Power to bring legal proceedings under Article 177, 178, 202, 203 or 367.]

F59 Sch. 2 para. 3A inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 8 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2-7)

PART II

POWERS EXERCISABLE WITHOUT SANCTION IN VOLUNTARY WINDING UP, WITH SANCTION IN WINDING UP BY THE HIGH COURT

4. Power to bring or defend any action or other legal proceeding in the name and on behalf of the company.

5. Power to carry on the business of the company so far as may be necessary for its beneficial winding up.

PART III

POWERS EXERCISABLE WITHOUT SANCTION IN ANY WINDING UP

6. Power to sell any part of the company's property, including the goodwill and book debts of any business.

7. [^{F60}Without prejudice to Article 28 or 30 of the Property (Northern Ireland) Order 1997,] power to make, on such terms and conditions as the liquidator may think proper, a sub#fee farm grant of land or any part thereof, or a sub#lease of land or any part thereof with a nominal reversion (and to sell the rent or reversion), where such sub#fee farm grant or sub#lease amounts in substance to a sale and the liquidator has satisfied himself that it is the most appropriate method of disposing of the land.

F60 1997 NI 8

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[^{F61}7A Power to compromise, on such terms as may be agreed—

- (a) all calls and liabilities to calls, all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and
- (b) subject to paragraph 2 in Part 1 of this Schedule, all questions in any way relating to or affecting the assets or the winding up of the company,

and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.]

F61 Sch. 2 para. 7A inserted (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 7(3), 28(2) (with Sch. 2 para. 4); S.R. 2016/203, art. 2

8. Power to do all acts and execute, in the name and on behalf of the company, all deeds, receipts and other documents^{F62}. . . .

F62 2005 NI 7

[^{F63}8A. Power to use the company's seal.]

F63 2005 NI 7

9. Power to prove, rank and claim in the bankruptcy or insolvency of any contributory for any balance against his estate, and to receive dividends in the bankruptcy or insolvency in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.

10. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the company's liability as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business.

11. Power to raise on the security of the assets of the company any money requisite.

12.—(1) Power to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot conveniently be done in the name of the company.

(2) For the purposes of sub#paragraph (1) the money due is deemed, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, to be due to the liquidator himself.

13. Power to appoint an agent to do any business which the liquidator is unable to do himself.

14. Power to do all such other things as may be necessary for winding up the company's affairs and distributing its assets.

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[^{F64}SCHEDULE 2ZZA

Article 197B

PROTECTION OF SUPPLIES UNDER ARTICLE 197B: EXCLUSIONS

F64 Sch. 2ZZA inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 13 para. 1](#) (with ss. 2(2), 5(2), 18(4))

PART 1

ESSENTIAL SUPPLIES

Essential supplies

- 1.—(1) Article 197B(3) and (4) do not apply in relation to provision of a contract if—
- (a) the company becomes subject to a relevant insolvency procedure as specified in Article 197B(2)(b) or (d), and
 - (b) the provision of the contract ceases to have effect under Article 197A(1).
- (2) Article 197B(7) does not apply in relation to a supply to the company if—
- (a) the company becomes subject to a relevant insolvency procedure as specified in Article 197B(2)(b) to (f), and
 - (b) the supply is a supply mentioned in Article 197(3).

PART 2

PERSONS INVOLVED IN FINANCIAL SERVICES

Introductory

2 Article 197B does not apply in relation to a contract for the supply of goods or services to a company (“the company”) where any of paragraphs 3 to 11 applies.

Insurers

- 3.—(1) This paragraph applies where either the company or the supplier—
- (a) carries on the regulated activity of effecting or carrying out contracts of insurance, and
 - (b) is not an exempt person in relation to that activity.
- (2) In this paragraph—
- “exempt person”, in relation to a regulated activity, has the meaning given by section 417 of the Financial Services and Markets Act 2000;
- “regulated activity” has the meaning given by section 22 of that Act, taken with Schedule 2 to that Act and any order under that section.

Banks

- 4.—(1) This paragraph applies where either the company or the supplier—

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- (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of accepting deposits,
 - (b) is a banking group company within the meaning of Part 1 of the Banking Act 2009 (see section 81D of that Act), or
 - (c) has a liability in respect of a deposit which it accepted in accordance with the Banking Act 1979 or the Banking Act 1987.
- (2) In sub-paragraph (1)(a) “regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000, taken with Schedule 2 to that Act and any order under that section.

Electronic money institutions

5 This paragraph applies where either the company or the supplier is an electronic money institution within the meaning of the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2 of those Regulations).

Investment banks and investment firms

6.—(1) This paragraph applies where either the company or the supplier is an investment bank or an investment firm.

(2) In this paragraph—

“investment bank” means a company or other entity that has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of—

- (a) safeguarding and administering investments,
- (b) managing an AIF or a UCITS,
- (c) acting as trustee or depositary of an AIF or a UCITS,
- (d) dealing in investments as principal, or
- (e) dealing in investments as agent;

“investment firm” has the same meaning as in the Banking Act 2009 (see section 258A of that Act), disregarding any order made under section 258A(2)(b) of that Act;

“regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000, taken with Schedule 2 to that Act and any order under that section.

Payment institutions

7 This paragraph applies where either the company or the supplier is an authorised payment institution, a small payment institution or a registered account information service provider within the meaning of the Payment Services Regulations 2017 (S.I. 2017/752) (see regulation 2 of those Regulations).

Operators of payment systems, infrastructure providers etc

8 This paragraph applies where either the company or the supplier is—

- (a) the operator of a payment system or an infrastructure provider within the meaning of Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 42 of that Act), or
- (b) an infrastructure company within the meaning of Part 6 of that Act (see section 112 of that Act).

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Recognised investment exchanges etc

9 This paragraph applies where either the company or the supplier is a recognised investment exchange, a recognised clearing house or a recognised CSD within the meaning of the Financial Services and Markets Act 2000 (see section 285 of that Act).

Securitisation companies

10 This paragraph applies where either the company or the supplier is a securitisation company within the meaning of the Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296) (see regulation 4 of those Regulations).

Overseas activities

11 This paragraph applies where either the company or the supplier does or has done anything outside the United Kingdom which, if done in the United Kingdom, would cause any of the preceding paragraphs of this Part of this Schedule to apply.

PART 3

CONTRACTS INVOLVING FINANCIAL SERVICES

Introductory

12 To the extent that anything to which any of paragraphs 13 to 18 applies is a contract for the supply of goods or services, Article 197B does not apply in relation to it.

Financial contracts

13.—(1) This paragraph applies to a financial contract.

(2) “Financial contract” means—

- (a)** a contract for the provision of financial services consisting of—
 - (i)** lending (including the factoring and financing of commercial transactions),
 - (ii)** financial leasing, or
 - (iii)** providing guarantees or commitments;
- (b)** a securities contract, including—
 - (i)** a contract for the purchase, sale or loan of a security or group or index of securities;
 - (ii)** an option on a security or group or index of securities;
 - (iii)** a repurchase or reverse repurchase transaction on any such security, group or index;
- (c)** a commodities contract, including—
 - (i)** a contract for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
 - (ii)** an option on a commodity or group or index of commodities;
 - (iii)** a repurchase or reverse repurchase transaction on any such commodity, group or index;

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- (d) a futures or forwards contract, including a contract (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date;
 - (e) a swap agreement, including—
 - (i) a swap or option relating to interest rates, spot or other foreign exchange agreements, currency, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation;
 - (ii) a total return, credit spread or credit swap;
 - (iii) any agreement or transaction similar to an agreement that is referred to in subparagraph (i) or (ii) and is the subject of recurrent dealing in the swaps or derivatives markets;
 - (f) an inter-bank borrowing agreement where the term of the borrowing is three months or less;
 - (g) a master agreement for any of the contracts or agreements referred to in paragraphs (a) to (f).
- (3) For the purposes of this paragraph “commodities” includes—
- (a) units recognised for compliance with the requirements of EU Directive [2003/87/EC](#) establishing a scheme for greenhouse gas emission allowance trading,
 - (b) allowances under paragraph 5 of Schedule 2 to the Climate Change Act 2008 relating to a trading scheme dealt with under Part 1 of that Schedule (schemes limiting activities relating to emissions of greenhouse gas), and
 - (c) renewables obligation certificates issued—
 - (i) by the Gas and Electricity Markets Authority under an order made under section 32B of the Electricity Act 1989, or
 - (ii) by the Northern Ireland Authority for Utility Regulation under the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)) and pursuant to an order made under Articles 52 to 55F of that Order.

Securities financing transactions

- 14.—**(1) This paragraph applies to—
- (a) a securities financing transaction, and
 - (b) a master agreement for securities financing transactions.
- (2) “Securities financing transaction” has the meaning given by Article 3(11) of [Regulation \(EU\) 2015/2365](#) on the transparency of securities financing transactions.
- (3) But for the purposes of that Article as it applies for the purposes of this paragraph, references to “commodities” in that Regulation are to be taken as including the units, allowances and certificates referred to in paragraph 13(3)(a) to (c).

Derivatives

- 15.—**(1) This paragraph applies to—
- (a) a derivative, and
 - (b) a master agreement for derivatives.
- (2) “Derivative” has the meaning given by Article 2(5) of [Regulation \(EU\) No. 648/2012](#).

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Spot contracts

16.—(1) This paragraph applies to—

- (a) a spot contract, and
- (b) a master agreement for spot contracts.

(2) “Spot contract” has the meaning given by Article 7(2) or 10(2) of Commission Delegated Regulation of 25.4.2016 supplementing [Directive 2014/65/EU](#) of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

Capital market investments

17.—(1) This paragraph applies to an agreement which is, or forms part of, an arrangement involving the issue of a capital market investment.

(2) “Capital market investment” has the meaning given by paragraph 14 of Schedule ZA1.

Contracts forming part of a public-private partnership

18 This paragraph applies to a contract forming part of a public-private partnership project within the meaning given by paragraph 16 of Schedule ZA1.

PART 4

OTHER EXCLUSIONS

Financial markets and insolvency

19 Nothing in Article 197B affects the operation of—

- (a) Part 5 of the Companies (No. 2) (Northern Ireland) Order 1990 (financial markets and insolvency),
- (b) the Financial Markets and Insolvency Regulations (Northern Ireland) 1996 (S.R. 1996/252),
- (c) the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979), or
- (d) the Financial Collateral Arrangements (No.2) Regulations 2003 (S.I. 2003/3226).

Set-off and netting

20 Nothing in Article 197B affects any set-off or netting arrangements (within the meanings given by section 48(1)(c) and (d) of the Banking Act 2009).

Aircraft equipment

21 Nothing in Article 197B affects the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015 (S.I. 2015/912).]

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[^{F65}SCHEDULE 2ZA

CONDITIONS FOR MAKING A DEBT RELIEF ORDER

F65 Sch. 2ZA inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 2, 7(1); S.R. 2011/13, art. 2

PART 1

CONDITIONS WHICH MUST BE MET

Connection with Northern Ireland

- 1.—(1) The debtor—
 - (a) is domiciled in Northern Ireland on the application date; or
 - (b) at any time in the 3 years immediately preceding that date—
 - (i) was ordinarily resident, or had a place of residence, in Northern Ireland; or
 - (ii) carried on business in Northern Ireland.
- (2) The reference in sub-paragraph (1)(b)(ii) to the debtor carrying on business includes—
 - (a) the carrying on of business by a firm or partnership of which he is a member;
 - (b) the carrying on of business by an agent or manager for him or for such a firm or partnership.

Debtor's previous insolvency history

- 2 The debtor is not, on the determination date—
 - (a) an undischarged bankrupt;
 - (b) subject to an interim order or voluntary arrangement under Chapter 2 of Part 8; or
 - (c) subject to a bankruptcy restrictions order or a debt relief restrictions order.
- 3 A debtor's petition for the debtor's bankruptcy under Part 9—
 - (a) has not been presented by the debtor before the determination date;
 - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
 - (c) has been so presented and proceedings in relation to the petition remain before the High Court at that date, but the Court has referred the debtor under Article 248A(2) for the purposes of making an application for a debt relief order.
- 4 A creditor's petition for the debtor's bankruptcy under Part 9—
 - (a) has not been presented against the debtor at any time before the determination date;
 - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
 - (c) has been so presented and proceedings in relation to the petition remain before the Court at that date, but the person who presented the petition has consented to the making of an application for a debt relief order.

Status: Point in time view as at 26/06/2020.

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5 A debt relief order has not been made in relation to the debtor in the period of 6 years ending with the determination date.

Limit on debtor's overall indebtedness

6.—(1) The total amount of the debtor's debts on the determination date, other than unliquidated debts and excluded debts, does not exceed the amount specified by order under Article 362(1)(b).

(2) For this purpose an unliquidated debt is a debt that is not for a liquidated sum payable to a creditor either immediately or at some future certain time.

Limit on debtor's monthly surplus income

7.—(1) The debtor's monthly surplus income (if any) on the determination date does not exceed the amount specified by order under Article 362(1)(b).

(2) For this purpose “monthly surplus income” is the amount by which a person's monthly income exceeds the amount necessary for the reasonable domestic needs of himself and his family.

(3) The rules may—

- (a) make provision as to how the debtor's monthly surplus income is to be determined;
- (b) provide that particular descriptions of income are to be excluded for the purposes of this paragraph.

Modifications etc. (not altering text)

C23 Sch. 2ZA para. 7 modified by S.R. 1991/364, Rule 5A.18 (as inserted (30.6.2011) by Insolvency (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/151), Rule 8, Sch. 1)

Limit on value of debtor's property

8.—(1) The total value of the debtor's property on the determination date does not exceed the amount specified by order under Article 362(1)(b).

(2) The rules may—

- (a) make provision as to how the value of a person's property is to be determined;
- (b) provide that particular descriptions of property are to be excluded for the purposes of this paragraph.

Modifications etc. (not altering text)

C24 Sch. 2ZA para. 8 modified by S.R. 1991/364, Rule 5A.18 (as inserted (30.6.2011) by Insolvency (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/151), Rule 8, Sch. 1)

PART 2

OTHER CONDITIONS

9.—(1) The debtor has not entered into a transaction with any person at an undervalue during the period between—

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- (a) the start of the period of 2 years ending with the application date; and
 - (b) the determination date.
- (2) For this purpose a debtor enters into a transaction with a person at an undervalue if—
- (a) he makes a gift to that person or he otherwise enters into a transaction with that person on terms that provide for him to receive no consideration;
 - (b) he enters into a transaction with that person in consideration of marriage or the formation of a civil partnership; or
 - (c) he enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the individual.
- 10.**—(1) The debtor has not given a preference to any person during the period between—
- (a) the start of the period of 2 years ending with the application date; and
 - (b) the determination date.
- (2) For this purpose a debtor gives a preference to a person if—
- (a) that person is one of the debtor's creditors to whom a qualifying debt is owed or is a surety or guarantor for any such debt, and
 - (b) the debtor does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event that a debt relief order is made in relation to the debtor, will be better than the position he would have been in if that thing had not been done.]

[^{F66}SCHEDULE 2ZB

DEBT RELIEF RESTRICTIONS ORDERS AND UNDERTAKINGS

F66 Sch. 2ZB inserted (30.6.2011) by [Debt Relief Act \(Northern Ireland\) 2010 \(c. 16\)](#), **ss. 3, 7(1)**; [S.R. 2011/13](#), **art. 2**

Debt relief restrictions order

- 1.**—(1) A debt relief restrictions order may be made by the High Court in relation to a person in respect of whom a debt relief order has been made.
- (2) An order may be made only on the application of—
- (a) the Department, or
 - (b) the official receiver acting on a direction of the Department.

Grounds for making order

- 2.**—(1) The High Court shall grant an application for a debt relief restrictions order if it thinks it appropriate to do so having regard to the conduct of the debtor (whether before or after the making of the debt relief order).
- (2) The Court shall, in particular, take into account any of the following kinds of behaviour on the part of the debtor—

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- (a) failing to keep records which account for a loss of property by the debtor, or by a business carried on by him, where the loss occurred in the period beginning 2 years immediately preceding the application date for the debt relief order and ending with the date of the application for the debt relief restrictions order;
 - (b) failing to produce records of that kind on demand by the official receiver;
 - (c) entering into a transaction at an undervalue in the period beginning 2 years before the application date for the debt relief order and ending with the date of the determination of that application;
 - (d) giving a preference in the period beginning 2 years before the application date for the debt relief order and ending with the date of the determination of that application;
 - (e) making an excessive pension contribution;
 - (f) a failure to supply goods or services that were wholly or partly paid for;
 - (g) trading at a time, before the date of the determination of the application for the debt relief order, when the debtor knew or ought to have known that he was unable to pay his debts;
 - (h) incurring, before the date of the determination of the application for the debt relief order, a debt which the debtor had no reasonable expectation of being able to pay;
 - (i) failing to account satisfactorily to the Court or the official receiver for a loss of property or for an insufficiency of property to meet his debts;
 - (j) carrying on any gambling, rash and hazardous speculation or unreasonable extravagance which may have materially contributed to or increased the extent of his inability to pay his debts before the application date for the debt relief order or which took place between that date and the date of the determination of the application for the debt relief order;
 - (k) neglect of business affairs of a kind which may have materially contributed to or increased the extent of his inability to pay his debts;
 - (l) fraud or fraudulent breach of trust;
 - (m) failing to co-operate with the official receiver.
- (3) The High Court shall also, in particular, consider whether the debtor was an undischarged bankrupt at some time during the period of 6 years ending with the date of the application for the debt relief order.

(4) For the purposes of sub-paragraph (2)—

“excessive pension contribution” shall be construed in accordance with Article 315A;

“preference” shall be construed in accordance with paragraph 10(2) of Schedule 2ZA;

“undervalue” shall be construed in accordance with paragraph 9(2) of that Schedule.

Timing of application for order

3 An application for a debt relief restrictions order in respect of a debtor may be made—

- (a) at any time during the moratorium period relating to the debt relief order in question, or
- (b) after the end of that period, but only with the permission of the Court.

Duration of order

4.—(1) A debt relief restrictions order—

- (a) comes into force when it is made, and
- (b) ceases to have effect at the end of a date specified in the order.

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- (2) The date specified in a debt relief restrictions order under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of 2 years beginning with the date on which the order is made, or
 - (b) after the end of the period of 15 years beginning with that date.

Interim debt relief restrictions order

- 5.—(1) This paragraph applies at any time between—
- (a) the institution of an application for a debt relief restrictions order, and
 - (b) the determination of the application.
- (2) The High Court may make an interim debt relief restrictions order if the Court thinks that—
- (a) there are prima facie grounds to suggest that the application for the debt relief restrictions order will be successful, and
 - (b) it is in the public interest to make an interim debt relief restrictions order.
- (3) An interim debt relief restrictions order may only be made on the application of—
- (a) the Department, or
 - (b) the official receiver acting on a direction of the Department.
- (4) An interim debt relief restrictions order—
- (a) has the same effect as a debt relief restrictions order, and
 - (b) comes into force when it is made.
- (5) An interim debt relief restrictions order ceases to have effect—
- (a) on the determination of the application for the debt relief restrictions order,
 - (b) on the acceptance of a debt relief restrictions undertaking made by the debtor, or
 - (c) if the Court discharges the interim debt relief restrictions order on the application of the person who applied for it or of the debtor.

6.—(1) This paragraph applies to a case in which both an interim debt relief restrictions order and a debt relief restrictions order are made.

(2) Paragraph 4(2) has effect in relation to the debt relief restrictions order as if a reference to the date of that order were a reference to the date of the interim debt relief restrictions order.

Debt relief restrictions undertaking

7.—(1) A debtor may offer a debt relief restrictions undertaking to the Department.

(2) In determining whether to accept a debt relief restrictions undertaking the Department shall have regard to the matters specified in paragraph 2(2) and (3).

8 A reference in a statutory provision to a person in respect of whom a debt relief restrictions order has effect (or who is “the subject of” a debt relief restrictions order) includes a reference to a person in respect of whom—

- (a) an interim debt relief restrictions order; or
- (b) a debt relief restrictions undertaking,

has effect.

9.—(1) A debt relief restrictions undertaking—

Status: Point in time view as at 26/06/2020.

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- (a) comes into force on being accepted by the Department, and
 - (b) ceases to have effect at the end of a date specified in the undertaking.
- (2) The date specified under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of 2 years beginning with the date on which the undertaking is accepted, or
 - (b) after the end of the period of 15 years beginning with that date.
- (3) On an application by the debtor the High Court may—
- (a) annul a debt relief restrictions undertaking;
 - (b) provide for a debt relief restrictions undertaking to cease to have effect before the date specified under sub-paragraph (1)(b).

Effect of revocation of debt relief order

10 Unless the High Court directs otherwise, the revocation at any time of a debt relief order does not—

- (a) affect the validity of any debt relief restrictions order, interim debt relief restrictions order or debt relief restrictions undertaking which is in force in respect of the debtor;
- (b) prevent the determination of any application for a debt relief restrictions order, or an interim debt relief restrictions order, in relation to the debtor that was instituted before that time;
- (c) prevent the acceptance of a debt relief restrictions undertaking that was offered before that time; or
- (d) prevent the institution of an application for a debt relief restrictions order or interim debt relief restrictions order in respect of the debtor, or the offer or acceptance of a debt relief restrictions undertaking by the debtor, after that time.]

[^{F67}SCHEDULE 2A

BANKRUPTCY RESTRICTIONS ORDER AND UNDERTAKING

F67 Sch. 2A inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 13(2), Sch. 5 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

Bankruptcy restrictions order

- 1.**—(1) A bankruptcy restrictions order may be made by the High Court.
- (2) An order may be made only on the application of—
- (a) the Department, or
 - (b) the official receiver acting on a direction of the Department.

Grounds for making order

2.—(1) The High Court shall grant an application for a bankruptcy restrictions order if it thinks it appropriate having regard to the conduct of the bankrupt (whether before or after the making of the bankruptcy order).

Status: Point in time view as at 26/06/2020.

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(2) The Court shall, in particular, take into account any of the following kinds of behaviour on the part of the bankrupt—

- (a) failing to keep records which account for a loss of property by the bankrupt, or by a business carried on by him, where the loss occurred in the period beginning 2 years immediately preceding petition and ending with the date of the application;
- (b) failing to produce records of that kind on demand by the official receiver or the trustee;
- (c) entering into a transaction at an undervalue;
- (d) giving a preference;
- (e) making an excessive pension contribution;
- (f) a failure to supply goods or services which were wholly or partly paid for which gave rise to a claim provable in the bankruptcy;
- (g) trading at a time before commencement of the bankruptcy when the bankrupt knew or ought to have known that he was unable to pay his debts;
- (h) incurring, before commencement of the bankruptcy, a debt which the bankrupt had no reasonable expectation of being able to pay;
- (i) failing to account satisfactorily to the Court, the official receiver or the trustee for a loss of property or for an insufficiency of property to meet bankruptcy debts;
- (j) carrying on any gambling, rash and hazardous speculation or unreasonable extravagance which may have materially contributed to or increased the extent of the bankruptcy or which took place between presentation of the petition and commencement of the bankruptcy;
- (k) neglect of business affairs of a kind which may have materially contributed to or increased the extent of the bankruptcy;
- (l) fraud or fraudulent breach of trust;
- (m) failing to cooperate with the official receiver or the trustee.

(3) The Court shall also, in particular, consider whether the bankrupt was an undischarged bankrupt at some time during the period of 6 years ending with the date of the bankruptcy to which the application relates.

(4) For the purpose of sub-paragraph (2)—

- “immediately preceding petition” shall be construed in accordance with Article 322(c),
- “excessive pension contribution” shall be construed in accordance with Article 315A,
- “preference” shall be construed in accordance with Article 313, and
- “undervalue” shall be construed in accordance with Article 312.

Timing of application for order

3.—(1) An application for a bankruptcy restrictions order in respect of a bankrupt must be made—

- (a) before the end of the period of one year beginning with the date on which the bankruptcy commences, or
- (b) with the permission of the High Court.¹

(2) The period specified in sub-paragraph (1)(a) shall cease to run in respect of a bankrupt while the period set for his discharge is suspended under Article 253(3).

Duration of order

4.—(1) A bankruptcy restrictions order—

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- (a) shall come into force when it is made, and
 - (b) shall cease to have effect at the end of a date specified in the order.
- (2) The date specified in a bankruptcy restrictions order under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of 2 years beginning with the date on which the order is made, or
 - (b) after the end of the period of 15 years beginning with that date.

Interim bankruptcy restrictions order

- 5.—**(1) This paragraph applies at any time between—
- (a) the institution of an application for a bankruptcy restrictions order, and
 - (b) the determination of the application.
- (2) The High Court may make an interim bankruptcy restrictions order if the Court thinks that—
- (a) there are prima facie grounds to suggest that the application for the bankruptcy restrictions order will be successful, and
 - (b) it is in the public interest to make an interim order.
- (3) An interim order may be made only on the application of—
- (a) the Department, or
 - (b) the official receiver acting on a direction of the Department.
- (4) An interim order—
- (a) shall have the same effect as a bankruptcy restrictions order, and
 - (b) shall come into force when it is made.
- (5) An interim order shall cease to have effect—
- (a) on the determination of the application for the bankruptcy restrictions order,
 - (b) on the acceptance of a bankruptcy restrictions undertaking made by the bankrupt, or
 - (c) if the Court discharges the interim order on the application of the person who applied for it or of the bankrupt.

6.—(1) This paragraph applies to a case in which both an interim bankruptcy restrictions order and a bankruptcy restrictions order are made.

(2) Paragraph 4(2) shall have effect in relation to the bankruptcy restrictions order as if a reference to the date of that order were a reference to the date of the interim order.

Bankruptcy restrictions undertaking

7.—(1) A bankrupt may offer a bankruptcy restrictions undertaking to the Department.

(2) In determining whether to accept a bankruptcy restrictions undertaking the Department shall have regard to the matters specified in paragraph 2(2) and (3).

8. A reference in a statutory provision to a person in respect of whom a bankruptcy restrictions order has effect (or who is “the subject of” a bankruptcy restrictions order) includes a reference to a person in respect of whom—

- (a) an interim bankruptcy restrictions order, or
- (b) a bankruptcy restrictions undertaking,

has effect.

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- 9.—(1) A bankruptcy restrictions undertaking—
- (a) shall come into force on being accepted by the Department, and
 - (b) shall cease to have effect at the end of a date specified in the undertaking.
- (2) The date specified under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of 2 years beginning with the date on which the undertaking is accepted, or
 - (b) after the end of the period of 15 years beginning with that date.
- (3) On an application by the bankrupt the High Court may—
- (a) annul a bankruptcy restrictions undertaking;
 - (b) provide for a bankruptcy restrictions undertaking to cease to have effect before the date specified under sub-paragraph (1)(b).

Modifications etc. (not altering text)

C25 Sch. 2A para. 9 modified by S.R. 1991/364, rule 6.242 (as inserted (27.3.2006) by Insolvency (Amendment) Rules (Northern Ireland) 2006 (S.R. 2006/47), Sch. 1 para. 92)

Effect of annulment of bankruptcy order

10. Where a bankruptcy order is annulled under Article 256(1)(a)—
- (a) any bankruptcy restrictions order, interim order or undertaking which is in force in respect of the bankrupt shall be annulled,
 - (b) no new bankruptcy restrictions order or interim order may be made in respect of the bankrupt, and
 - (c) no new bankruptcy restrictions undertaking by the bankrupt may be accepted.
11. Where a bankruptcy order is annulled under Article 235, 237D or 256(1)(b)—
- (a) the annulment shall not affect any bankruptcy restrictions order, interim order or undertaking in respect of the bankrupt,
 - (b) the High Court may make a bankruptcy restrictions order in relation to the bankrupt on an application instituted before the annulment,
 - (c) the Department may accept a bankruptcy restrictions undertaking offered before the annulment, and
 - (d) an application for a bankruptcy restrictions order or interim order in respect of the bankrupt may not be instituted after the annulment.

Registration

12. The Department shall maintain a register of—
- (a) bankruptcy restrictions orders,
 - (b) interim bankruptcy restrictions orders, and
 - (c) bankruptcy restrictions undertakings.]

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SCHEDULE 3

Article 287.

POWERS OF TRUSTEE IN BANKRUPTCY

PART I

POWERS EXERCISABLE WITH SANCTION

1. Power to carry on any business of the bankrupt so far as may be necessary for winding it up beneficially and so far as the trustee is able to do so without contravening any requirement imposed by or under any statutory provision.

2. Power to bring, institute or defend any action or legal proceedings relating to the property comprised in the bankrupt's estate.

[^{F68}2A. Power to bring legal proceedings under Article 312, 313 or 367.]

F68 Sch. 3 para. 2A inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 19 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2-7)

3. Power to accept as the consideration for the sale of any property comprised in the bankrupt's estate a sum of money payable at a future time subject to such stipulations as to security or otherwise as the creditors' committee or the High Court thinks fit.

4. Power to mortgage or pledge any part of the property comprised in the bankrupt's estate for the purpose of raising money for the payment of his debts.

5. Power, where any right, option or other power forms part of the bankrupt's estate, to make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of the right, option or power.

^{F69}6.

F69 Sch. 3 para. 6 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 8(2)(a), 28(2), Sch. 4 (with Sch. 2 para. 5); S.R. 2016/203, art. 2

7. Power to make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of bankruptcy debts.

8. Power to make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made on the trustee by any person ^{F70}....

F70 Words in Sch. 3 para. 8 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 8(2)(b), 28(2), Sch. 4 (with Sch. 2 para. 5); S.R. 2016/203, art. 2

PART II

POWERS EXERCISABLE WITHOUT SANCTION

9. Power to sell any part of the property for the time being comprised in the bankrupt's estate, including the goodwill and book debts of any business.

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10. [^{F71}Without prejudice to Article 28 or 30 of the Property (Northern Ireland) Order 1997,] power to make, on such terms and conditions as the trustee may think proper, a sub#fee farm grant of land or any part thereof, or a sub#lease of land or any part thereof with a nominal reversion (and to sell the rent or reversion), where such sub#fee farm grant or sub#lease amounts in substance to a sale and the trustee has satisfied himself that it is the most appropriate method of disposing of the land.

F71 1997 NI 8

[^{F72}10A Power to refer to arbitration, or compromise on such terms as may be agreed, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.]

F72 Sch. 3 paras. 10A-10B inserted (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 8(3), 28(2) (with Sch. 2 para. 5); S.R. 2016/203, art. 2

[^{F72}10B Power to make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made by the trustee on any person]

F72 Sch. 3 paras. 10A-10B inserted (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), ss. 8(3), 28(2) (with Sch. 2 para. 5); S.R. 2016/203, art. 2

11. Power to give receipts for any money received by him, being receipts which effectually discharge the person paying the money from all responsibility in respect of its application.

12. Power to prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate.

13. Power to exercise in relation to any property comprised in the bankrupt's estate any powers the capacity to exercise which is vested in him under Parts VIII to X.

14. Power to deal with any property comprised in the estate to which the bankrupt is beneficially entitled as tenant in tail to the same extent as a commissioner under sections 49 to 61 of the Fines and Recoveries (Ireland) Act 1834^{F73}.

F73 1834 c. 92

PART III

ANCILLARY POWERS

15. For the purposes of, or in connection with, the exercise of any of his powers under Parts VIII to X, the trustee may, by his official name—

- (a) hold property of every description,
- (b) make contracts,
- (c) sue and be sued,
- (d) enter into engagements binding on himself and, in respect of the bankrupt's estate, on his successors in office,
- (e) employ an agent,

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(f) execute any power of attorney, deed or other instrument;
and he may do any other act which is necessary or expedient for the purposes of or in connection with the exercise of those powers.

SCHEDULE 4

Article 346.

THE CATEGORIES OF PREFERENTIAL DEBTS

Category 1: Debts due to Inland Revenue

1. ^{F74}

F74 Sch. 4 paras. 1 - 2 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(a), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

2. ^{F75}

F75 Sch. 4 paras. 1 - 2 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(a), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

Category 2: Debts due to Customs and Excise

3. ^{F76}

F76 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

3A. ^{F77}

F77 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

3B. ^{F78}

F78 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

3C. ^{F79}

F79 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

4. ^{F80}

F80 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

5. ^{F81}

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F81 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5A. ^{F82}

F82 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5B. ^{F83}

F83 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

5C. ^{F84}

F84 Sch. 4 paras. 3 - 5C repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(b), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

Category 3: Social security contributions

6. ^{F85}

F85 Sch. 4 paras. 6 - 7 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(c), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

7. ^{F86}

F86 Sch. 4 paras. 6 - 7 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(1)(c), 31, Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

Category 4: Contributions to occupational pension schemes, etc.

8. Any sum which is owed by the debtor and is a sum to which^{F87} Schedule 3 to the Pension Schemes (Northern Ireland) Act 1993] applies (contributions to occupational pension schemes and state scheme premiums).

F87 1993 c. 49

Category 5: Remuneration, etc., of employees

9. So much of any amount which—

- (a) is owed by the debtor to a person who is or has been an employee of the debtor, and
- (b) is payable by way of remuneration in respect of the whole or any part of the period of 4 months next before the relevant date,

as does not exceed so much as may be specified in an order made by the Department.

10. An amount owed by way of accrued holiday remuneration, in respect of any period of employment before the relevant date, to a person whose employment by the debtor has been terminated, whether before, on or after that date.

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11. So much of any sum owed in respect of money advanced for the purpose as has been applied for the payment of a debt which, if it had not been paid, would have been a debt falling within paragraph 9 or 10.

12. So much of any amount which—

- (a) is ordered (whether before or after the relevant date) to be paid by the debtor under the Reserve Forces (Safeguard of Employment) Act 1985^{F88}, and
- (b) is so ordered in respect of a default made by the debtor before that date in the discharge of his obligations under that Act,

as does not exceed such amount as may be specified in an order made by the Department.

F88 1985 c. 17

Interpretation for Category 5

13.—(1) For the purposes of paragraphs 9 to 12, a sum is payable by the debtor to a person by way of remuneration in respect of any period if—

- (a) it is paid as wages or salary (whether payable for time or for piece work or earned wholly or partly by way of commission) in respect of services rendered to the debtor in that period, or
- (b) it is an amount falling within sub#paragraph (2) and is payable by the debtor in respect of that period.

[^{F89}(2) An amount falls within this sub#paragraph if it is—

- (a) a guarantee payment under Part V of the Employment Rights (Northern Ireland) Order 1996 (employee without work to do);
- (b) any payment for time off under Article 81 (time off to look for work or arrange training), Article 84 (time off for ante#natal care) or Article 93 (time off for carrying out trade union duties etc.) of that Order;
- (c) remuneration on suspension on medical grounds, or on maternity grounds, under Part VIII of that Order; or
- (d) remuneration under a protective award made under Article 217 of that Order (redundancy dismissal with compensation).]

F89 1996 NI 16

14.—(1) This paragraph relates to a case in which a person's employment has been terminated by or in consequence of his employer going into liquidation or being adjudged bankrupt (his employer being a company not in liquidation) by or in consequence of—

- (a) a receiver being appointed as mentioned in Article 50 (debenture#holders secured by floating charge), or
- (b) the taking of possession by debenture#holder (so secured), as mentioned in [^{F90}section 754 of the Companies Act 2006].

(2) For the purposes of paragraphs 9 to 12, holiday remuneration is deemed to have accrued to that person in respect of any period of employment if, by virtue of his contract of employment or of any statutory provision, that remuneration would have accrued in respect of that period if his employment had continued until he became entitled to be allowed the holiday.

(3) The reference in sub#paragraph (2) to any statutory provision includes an order or direction made under a statutory provision.

Status: Point in time view as at 26/06/2020.

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F90 Words in [Sch. 4 para. 14\(1\)\(b\)](#) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b), [Sch. 1 para. 170](#) (with arts. 6, 11, 12)

15. Without prejudice to paragraphs 13 and 14—

- (a) any remuneration payable by the debtor to a person in respect of a period of holiday or of absence from work through sickness or other good cause is deemed to be wages or (as the case may be) salary in respect of services rendered to the debtor in that period, ^{F91}...

^{F91}(b)

F91 [Sch. 4 para. 15\(b\)](#) and word repealed (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\)](#), ss. 10(5), 28(2), [Sch. 4](#); S.R. 2016/203, art. 2

Orders under Category 5

16. An order under paragraph 9 or 12—

- (a) may contain such transitional provisions as may appear to the Department necessary or expedient;
- (b) shall be subject to negative resolution.

Category 6: Levies on coal and steel production

17. Any sums due at the relevant date from the debtor in respect of—

- (a) the levies on the production of coal and steel referred to in Articles 49 and 50 of the E.C.S.C. Treaty, or
- (b) any surcharge for delay provided for in Article 50(3) of that Treaty and Article 6 of Decision 3/52 of the High Authority of the Coal and Steel Community.

[^{F92}Category 6A: Debts owed to the Financial Services Compensation Scheme

F92 [Sch. 4 para. 17A](#) and cross-heading inserted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), [15\(3\)\(a\)](#)

17A. Any debt owed by the debtor to the scheme manager of the Financial Services Compensation Scheme under section 215(2A) of the Financial Services and Markets Act 2000.]

[^{F93}Category 7: Deposits covered by Financial Services Compensation Scheme

F93 [Sch. 4 paras. 18-21](#) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), [23](#) (with art. 3)

18. So much of any amount owed at the relevant date by the debtor in respect of an eligible deposit as does not exceed the compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to the person or persons to whom the amount is owed.]

[^{F93}Category 8: Other deposits

19. So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

20. An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit that—

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- (a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and
- (b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.]

[^{F93}Interpretation for Categories [^{F94}6A, 7 and 8]

F94 Words in Sch. 4 para. 21 heading substituted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), **15(3)(b)**

21.—[

^{F95}(A1) In paragraph 17A “the scheme manager” has the meaning given in section 212(1) of the Financial Services and Markets Act 2000.]

(1) In paragraphs 18 to 20 “eligible deposit” means a deposit in respect of which the person, or any of the persons, to whom it is owed would be eligible for compensation under the Financial Services Compensation Scheme.

(2) For the purposes of those paragraphs and this paragraph a “deposit” means rights of the kind described in—

- (a) paragraph 22 of Schedule 2 to the Financial Services and Markets Act 2000 (deposits), or
- (b) section 1(2)(b) of the Dormant Banks and Building Society Accounts Act 2008 (balances transferred under that Act to authorised reclaim fund).

(3) In paragraphs 19 and 20, “eligible person” means—

- (a) an individual, or
- (b) a micro-enterprise, a small enterprise or medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of the Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

(4) In paragraph 20—

- (a) “credit institution” has the meaning given in Article 4.1(1) of the capital requirements regulation;
- (b) “EEA branch” means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state;
- (c) “non-EEA branch” means a branch, as so defined, which is established in a country which is not an EEA state;

and for this purpose “the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.]

F95 Sch. 4 para. 21(A1) inserted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), **15(3)(c)**

SCHEDULE 5

Article 359.

PROVISIONS CAPABLE OF INCLUSION IN COMPANY INSOLVENCY RULES

High Court

1.—^[F96](1) Provision for regulating the practice and procedure of the High Court so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies, being any provision that could be made by rules of court.

^[F97](2) Rules made by virtue of this paragraph about the consequence of failure to comply with practice or procedure may, in particular, include provision about the termination of administration.]

F96 Sch. 5 para. 1 renumbered (27.3.2006) as sub - para. (1) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 46(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

F97 Sch. 5 para. 1(2) added (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 46(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

2. Provision conferring rights of audience, in the High Court so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies, on the official receiver.

Notices, etc.

3. Provision requiring notice of any proceedings in connection with or arising out of the insolvency or winding up of a company to be given or published in the prescribed manner.

4. Provision with respect to the form, manner of serving, contents and proof of any petition, application, order, notice, statement or other document required to be presented, made, given, published or prepared under any statutory provision relating to, or to matters connected with or arising out of, the insolvency or winding up of companies.

5. Provision specifying the persons to whom any notice is to be given.

Registration of voluntary arrangements

6. Provision for the registration of voluntary arrangements approved under Part II, including provision for the keeping and inspection of a register.

Provisional liquidator

7. Provision as to the manner in which a provisional liquidator appointed under Article 115 is to carry out his functions.

Conduct of insolvency

8. Provision with respect to the certification of any person as, and as to the proof that a person is, ^[F98]the monitor in relation to a moratorium under Part 1A or] the liquidator, administrator or administrative receiver of a company.

F98 Words in Sch. 5 para. 8 inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 7 para. 28(2)** (with ss. 2(2), 5(2))

9. The following provision with respect to meetings of a company's creditors, contributories or members—

(a) provision as to the manner of summoning a meeting (including provision as to how any power to require a meeting is to be exercised, provision as to the manner of determining

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the value of any debt or contribution for the purposes of any such power and provision making the exercise of any such power subject to the deposit of a sum sufficient to cover the expenses likely to be incurred in summoning and holding a meeting);

- (b) provision specifying the time and place at which a meeting may be held and the period of notice required for a meeting;
- (c) provision as to the procedure to be followed at a meeting (including the manner in which decisions may be reached by a meeting and the manner in which the value of any vote at a meeting is to be determined);
- (d) provision for requiring a person who is or has been an officer of the company to attend a meeting;
- (e) provision creating, in the prescribed circumstances, a presumption that a meeting has been duly summoned and held;
- (f) provision as to the manner of proving the decisions of a meeting.

10.—(1) Provision as to the functions, membership and proceedings of a committee established under^{F99} Article 59, 87 or 120, or paragraph 58 of Schedule B1].

(2) The following provision with respect to the establishment of a committee under Article 87 or 120, that is to say—

- (a) provision for resolving differences between a meeting of the company's creditors and a meeting of its contributories or members;
- (b) provision authorising the establishment of the committee without a meeting of contributories in a case where a company is being wound up on grounds including its inability to pay its debts; and
- (c) provision modifying the requirements of this Order with respect to the establishment of the committee in a case where a winding#up order has been made immediately upon the discharge of an administration order.

F99 Words in Sch. 5 para. 10(1) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 46(3) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

11. Provision as to the manner in which any requirement that may be imposed on a person under any of Parts II to VII by the official receiver, the liquidator, administrator or administrative receiver of a company or a special manager appointed under Article 151 is to be so imposed.

12. Provision as to the debts that may be proved in a winding up, as to the manner and conditions of proving a debt and as to the manner and expenses of establishing the value of any debt or security.

13. Provision with respect to the manner of the distribution of the property of a company that is being wound up, including provision with respect to unclaimed funds and dividends.

14. Provision which, with or without modifications, applies in relation to the winding up of companies any provision contained in Parts VIII to X.

^{F100}**14A.** Provision about the application of Article 150A which may include, in particular—

- (a) provision enabling a receiver to institute winding up proceedings;
- (b) provision requiring a receiver to institute winding up proceedings.]

F100 Sch. 5 para. 14A inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 46(4) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

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[^{F101}Administration]

F101 Sch. 5 para. 14B and preceding cross - heading inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(5) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2 - 7](#))

[^{F102}14B. Provision which—

- (a) applies in relation to administration, with or without modifications, a provision of Parts V to VII and any of Articles 5 to 8 in so far as that Article relates to that provision, or
- (b) serves a purpose in relation to administration similar to a purpose that may be served by the rules in relation to winding up by virtue of a provision of this Schedule.]

F102 Sch. 5 para. 14B and preceding cross - heading inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(5) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2 - 7](#))

Financial provisions

15. Provision as to the amount, or manner of determining the amount, payable to the liquidator, administrator or administrative receiver of a company or a special manager appointed under Article 151, by way of remuneration for the carrying out of functions in connection with or arising out of the insolvency or winding up of a company.

16. Provision with respect to the manner in which money received by the liquidator of a company in the course of carrying out his functions as such is to be paid into and out of the Insolvency Account, invested or otherwise handled and with respect to the payment of interest on sums which, in pursuance of rules made by virtue of this paragraph, have been paid into the Insolvency Account.

[^{F103}16A. Provision enabling the Department to set the rate of interest paid on sums which have been paid into the Insolvency Account.]

F103 Sch. 5 para. 16A inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 27(1) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2-7](#))

17. Provision as to the costs that may be treated as the expenses of a winding up.

18. Provision as to the costs that may be treated as properly incurred by the administrator or administrative receiver of a company.

19. Provision as to the costs that may be incurred for any of the purposes of Part II or in the administration of any voluntary arrangement approved under that Part.

Information and records

20. Provision requiring officers of the High Court—

- (a) to keep books and other records with respect to the exercise of the jurisdiction of the Court in relation to, or to matters connected with or arising out of, the insolvency or winding up of companies, and
- (b) to make returns to the Department of the business of the Court.

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21. Provision requiring a creditor, member or contributory, or such a committee as is mentioned in paragraph 10, to be supplied (on payment in prescribed cases of the prescribed fee) with such information and with copies of such documents as may be prescribed.

22. Provision as to the manner in which public examinations under Articles 113 and 114 and proceedings under Articles 200 and 201 are to be conducted, as to the circumstances in which records of such examinations or proceedings are to be made available to prescribed persons and as to the costs of such examinations and proceedings.

23. Provision imposing requirements with respect to—

- (a) the preparation and keeping by the liquidator, administrator or administrative receiver of a company, or by the supervisor of a voluntary arrangement approved under Part II, of prescribed books, accounts and other records;
- (b) the production in the manner and at the location prescribed of those books, accounts and records for inspection by prescribed persons;
- (c) the auditing of accounts kept by the liquidator, administrator or administrative receiver of a company, or the supervisor of such a voluntary arrangement; and
- (d) the issue by the administrator or administrative receiver of a company of such a certificate as is mentioned in section 22(3)(b) of the Value Added Tax Act 1983^{F104} (refund of tax in cases of bad debts) and the supply of copies of the certificate to creditors of the company.

F104 1983 c. 55

24. Provision requiring the person who is the supervisor of a voluntary arrangement approved under Part II, when it appears to him that the voluntary arrangement has been fully implemented and that nothing remains to be done by him under the arrangement—

- (a) to give notice of that fact to persons bound by the voluntary arrangement, and
- (b) to report to those persons on the carrying out of the functions conferred on the supervisor of the arrangement.

25. Provision as to the manner in which the liquidator of a company is to act in relation to the books, papers and other records of the company, including provision authorising their disposal.

26. Provision imposing requirements in connection with the carrying out of functions under^{F105} Article 10(4) of the Company Directors Disqualification (Northern Ireland) Order 2002] (including, in particular, requirements with respect to the making of periodic returns).

F105 2002 NI 4

General

^{F106}**27.** Provision conferring power on the Department to make regulations with respect to so much of any matter that may be provided for in the rules as relates to the Insolvency Account or to the carrying out of the functions of the liquidator, administrator or administrative receiver of a company.]

F106 "By Banking Act 2009 (c. 1), ss. 125(7), 134, 263(1) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. it is provided that Sch. 5 para. 27 is amended (17.2.2009 for certain purposes, otherwise 21.2.2009) (Sch. 5 para. 27 being the equivalent enactment having effect in relation to Northern Ireland to Sch. 8 para. 27 of the Insolvency Act 1986 (c. 45))"

28. Provision conferring a discretion on the High Court.

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29. Provision conferring power on the High Court to make orders for the purpose of securing compliance with obligations imposed by or under^[F107] Article 57, 111, 121(2) or 199 of, or paragraph 48 of Schedule B1 to, this Order] or^[F108] Article 10(5) of the Company Directors Disqualification (Northern Ireland) Order 2002].

F107 Words in Sch. 5 para. 29 substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 46(6) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

F108 2002 NI 4

30. Provision making non-compliance with any of the rules a criminal offence.

SCHEDULE 6^{F109}

Article 359.

PROVISIONS CAPABLE OF INCLUSION IN INDIVIDUAL INSOLVENCY RULES

F109 mod. by SR 2004/307

High Court

1. Provision for regulating the practice and procedure of the High Court for the purposes of^[F110] Parts 7A to 10], being any provision that could be made by rules of court.

F110 Words in Sch. 6 para. 1 substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(a); S.R. 2011/13, art. 2

2. Provision conferring rights of audience, in the High Court for the purposes of^[F111] Parts 7A to 10], on the official receiver.

F111 Words in Sch. 6 para. 2 substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(b); S.R. 2011/13, art. 2

Notices, etc.

3. Provision requiring notice of any proceedings under^[F112] Parts 7A to 10] or of any matter relating to or arising out of a proposal under Part VIII or a bankruptcy to be given or published in the prescribed manner.

F112 Words in Sch. 6 para. 3 substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(c); S.R. 2011/13, art. 2

4. Provision with respect to the form, manner of serving, contents and proof of any petition, application, order, notice, statement or other document required to be presented, made, given, published or prepared under any provision contained in^[F113] Parts 7A to 10], or Articles 359 to 366 (including provision requiring prescribed matters to be verified by affidavit).

F113 Words in Sch. 6 para. 4 substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(d); S.R. 2011/13, art. 2

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5. Provision specifying the persons to whom any notice under [^{F114}Parts 7A to 10] is to be given.

F114 Words in Sch. 6 para. 5 substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(e); S.R. 2011/13, art. 2

[^{F115}Debt relief orders

F115 Sch. 6 paras. 5A-5E and cross-headings inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(f); S.R. 2011/13, art. 2

5A Provision as to the manner in which the official receiver is to carry out his functions under Part 7A.

5B Provision as to the manner in which any requirement that may be imposed by the official receiver on a person under Part 7A is to take effect.

5C Provision modifying the application of Part 7A in relation to an individual who has died at a time when a moratorium period under a debt relief order applies in relation to him.

Debt relief restrictions orders and undertakings

5D Provision about debt relief restrictions orders, interim orders and undertakings, including provision about evidence.

Register of debt relief orders and debt relief restrictions orders, etc.

5E Provision about the register required to be maintained by Article 208W and the information to be contained in it, including provision—

- (a) enabling the amalgamation of the register with another register;
- (b) enabling inspection of the register by the public.]

^{F116} ... Voluntary arrangements

F116 Words in Sch. 6 para. 6 cross-heading repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), Sch. 4; S.R. 2016/203, art. 2

6. Provision ^{F117}... for the registration of ^{F118}... voluntary arrangements approved under Part VIII, including provision for the keeping and inspection of a register.

F117 Words in Sch. 6 para. 6 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), Sch. 4; S.R. 2016/203, art. 2

F118 Word in Sch. 6 para. 6 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), Sch. 4; S.R. 2016/203, art. 2

[^{F119}Official receiver acting on voluntary arrangement]

F119 Sch. 6 para. 6A and preceding cross - heading inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, Sch. 8 para. 16(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

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[^{F120} **6A.** Provision about the official receiver acting as nominee or supervisor in relation to a voluntary arrangement under Part VIII, including—

- (a) provision requiring the official receiver to act in specified circumstances;
- (b) provision about remuneration;
- (c) provision prescribing terms or conditions to be treated as forming part of a voluntary arrangement in relation to which the official receiver acts as nominee or supervisor;
- (d) provision enabling those terms or conditions to be varied or excluded, in specified circumstances or subject to specified conditions, by express provision in an arrangement.]

F120 Sch. 6 para. 6A and preceding cross - heading inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 25, Sch. 8 para. 16(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

Interim receiver

7. Provision as to the manner in which an interim receiver appointed under Article 259 is to carry out his functions, including any such provision as is specified in relation to the trustee of a bankrupt's estate in paragraph 19 or 25.

Receiver or manager

8. Provision as to the manner in which the official receiver is to carry out his functions as receiver or manager of a bankrupt's estate under Article 260, including any such provision as is specified in relation to the trustee of a bankrupt's estate in paragraph 19 or 25.

Administration of individual insolvency

9. Provision with respect to the certification of the appointment of any person as trustee of a bankrupt's estate and as to the proof of that appointment.

10. The following provision with respect to meetings of creditors—

- (a) provision as to the manner of summoning a meeting (including provision as to how any power to require a meeting is to be exercised, provision as to the manner of determining the value of any debt for the purposes of any such power and provision making the exercise of any such power subject to the deposit of a sum sufficient to cover the expenses likely to be incurred in summoning and holding a meeting);
- (b) provision specifying the time and place at which a meeting may be held and the period of notice required for a meeting;
- (c) provision as to the procedure to be followed at such a meeting (including the manner in which decisions may be reached by a meeting and the manner in which the value of any vote at a meeting is to be determined);
- (d) provision for requiring a bankrupt or debtor to attend a meeting;
- (e) provision creating, in the prescribed circumstances, a presumption that a meeting has been duly summoned and held; and
- (f) provision as to the manner of proving the decisions of a meeting.

11. Provision as to the functions, membership and proceedings of a creditors' committee established under Article 274.

12. Provision as to the manner in which any requirement that may be imposed on a person under [^{F121}Parts 7A to 10] by the official receiver, the trustee of a bankrupt's estate or a special manager appointed under Article 341 is to be so imposed and, in the case of any requirement imposed

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under Article 278(3) (information, etc., to be given by the trustee to the official receiver), provision conferring power on the High Court to make orders for the purpose of securing compliance with that requirement.

F121 Words in Sch. 6 para. 12 substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(g); S.R. 2011/13, art. 2

13. Provision as to the manner in which any requirement imposed by virtue of Article 283(3) (compliance with income payments order) is to take effect.

14. Provision as to the terms and conditions that may be included in a charge under Article 286 (dwelling house forming part of bankrupt's estate).

15. Provision as to the debts that may be proved in any bankruptcy, as to the manner and conditions of proving a debt and as to the manner and expenses of establishing the value of any debt or security.

16. Provision with respect to the manner of the distribution of a bankrupt's estate, including provision with respect to unclaimed funds and dividends.

17. Provision modifying the application of Parts VIII to X in relation to a debtor or bankrupt who has died.

Financial provisions

18. Provision as to the amount, or manner of determining the amount, payable to an interim receiver, the trustee of a bankrupt's estate or a special manager appointed under Article 341 by way of remuneration for the performance of functions in connection with or arising out of the bankruptcy of any person.

19. Provision with respect to the manner in which money received by the trustee of a bankrupt's estate in the course of carrying out his functions as such is to be paid into and out of the Insolvency Account, invested or otherwise handled and with respect to the payment of interest on sums which, in pursuance of rules made by virtue of this paragraph, have been paid into the Insolvency Account.

[^{F122}**19A.** Provision enabling the Department to set the rate of interest paid on sums which have been paid into the Insolvency Account.]

F122 Sch. 6 para. 19A inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 27(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2-7)

20. Provision as to the costs that may be treated as the expenses of a bankruptcy.

21. Provision as to the costs that may be incurred for any of the purposes of Part VIII or in the administration of any voluntary arrangement approved under that Part.

Information and records

22. Provision requiring officers of the High Court—

- (a) to keep books and other records with respect to the exercise of the jurisdiction of the Court under [^{F123}Parts 7A to 10], and
- (b) to make returns to the Department of the business of the Court.

F123 Words in Sch. 6 para. 22(a) substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), Sch. para. 4(14)(h); S.R. 2011/13, art. 2

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23. Provision requiring a creditor or a committee established under Article 274 to be supplied (on payment in prescribed cases of the prescribed fee) with such information and with copies of such documents as may be prescribed.

24. Provision as to the manner in which public examinations under Article 263 and proceedings under Articles 337 to 339 are to be conducted, as to the circumstances in which records of such examinations and proceedings are to be made available to prescribed persons and as to the costs of such examinations and proceedings.

25. Provision imposing requirements with respect to—

- (a) the preparation and keeping by the trustee of a bankrupt's estate^{F124}... or the supervisor of a voluntary arrangement approved under Part VIII, of prescribed books, accounts and other records;
- (b) the production in the manner and at the location prescribed of those books, accounts and records for inspection by prescribed persons; and
- (c) the auditing of accounts kept by the trustee of a bankrupt's estate^{F124}... or the supervisor of such a voluntary arrangement.

F124 Words in Sch. 6 para. 25(a)(c) repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), Sch. 4; S.R. 2016/203, art. 2

26. Provision requiring the person who is the supervisor of a voluntary arrangement approved under Part VIII, when it appears to him that the voluntary arrangement has been fully implemented and that nothing remains to be done by him under it—

- (a) to give notice of that fact to persons bound by the voluntary arrangement, and
- (b) to report to those persons on the carrying out of the functions conferred on the supervisor of it.

27. Provision as to the manner in which the trustee of a bankrupt's estate is to act in relation to the books, papers and other records of the bankrupt, including provision authorising their disposal.

[^{F125}Bankruptcy restrictions orders and undertakings]

F125 Sch. 6 para. 27A and preceding cross - heading inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, Sch. 8 para. 16(3) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

[^{F126}27A. Provision about bankruptcy restrictions orders, interim orders and undertakings, including—

- (a) provision about evidence;
- (b) provision enabling the amalgamation of the register mentioned in paragraph 12 of Schedule 2A with another register;
- (c) provision enabling inspection of that register by the public.]

F126 Sch. 6 para. 27A and preceding cross - heading inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, Sch. 8 para. 16(3) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

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General

28. Provision conferring power on the Department to make regulations with respect to so much of any matter that may be provided for in the rules as relates to ^{F127}... the Insolvency Account or to the carrying out of the functions of an interim receiver appointed under Article 259, of the official receiver while acting as a receiver or manager under Article 260 or of a trustee of a bankrupt's estate.

F127 Words in Sch. 6 para. 28 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), Sch. 4; S.R. 2016/203, art. 2

29. Provision conferring a discretion on the High Court.

30. Provision making non-compliance with any of the rules a criminal offence.

SCHEDULE 7

Article 373.

PUNISHMENT OF OFFENCES UNDER THIS ORDER

Article of Order creating offence	General nature of offence	Mode of prosecution	Punishment	Daily default fine (where applicable)
[^{F128} 13BE(4)	Directors failing to notify monitor of beginning of moratorium.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.	
13BE(5)	Monitor failing to notify creditors etc of beginning of moratorium.	Summary.	Level 3 on the standard scale.	
13CH(6)	Directors failing to notify monitor of change in end of moratorium.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.	
13CH(7)	Monitor failing to notify creditors etc of change in end of moratorium.	Summary.	Level 3 on the standard scale.	
13DA(5)	Company or officer failing to state in correspondence etc that	Summary.	Level 3 on the standard scale.	

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	moratorium in force.		
13DF(4)	Directors failing to notify monitor of insolvency proceedings etc.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DG(3)(a)	Company obtaining credit without disclosing existence of moratorium.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DG(3)(b)	Obtaining credit for company without disclosing existence of moratorium.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DH(4)(a)	Company granting security without monitor's consent.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DH(4)(b)	Authorising or permitting company to do so.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DI(1)(a)	Company entering into market contract, etc.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DI(1)(b)	Authorising or permitting company to do so.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DJ(5)(a)	Company making unauthorised payments.	1. On indictment. 2. Summary.	A fine. The statutory maximum.

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13DJ(5)(b)	Authorising or permitting company to do so.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DK(6)(a)	Company making unauthorised disposal of property.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DK(6)(b)	Authorising or permitting such a disposal.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DL(2)(a)	Unauthorised disposal of hire-purchase property.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DL(2)(b)	Authorising or permitting such a disposal.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DM(8)	Directors failing to send to registrar copy of court order permitting disposal of charged property.	Summary.	Level 3 on the standard scale.
13DM(9)(a)	Company failing to comply with requirements relating to disposal of charged property.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DM(9)(b)	Authorising or permitting such a failure.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.

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13DN(4)(a)	Company failing to comply with requirements relating to disposal of hire-purchase property.	1. On indictment. 2. Summary.	A fine. The statutory maximum.
13DN(4)(b)	Authorising or permitting such a failure.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13DN(6)	Directors failing to send to registrar copy of court order permitting disposal of hire-purchase property.	Summary.	Level 3 on the standard scale.
13EE(9)	Monitor failing to notify creditors etc of change in monitor.	Summary.	Level 3 on the standard scale.
13G(1)	Fraud or privity to fraud during or in anticipation of moratorium.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13G(4)	Knowingly taking in pawn or pledge, or otherwise receiving, company property.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13GA(1)	False representation or fraud for purpose of obtaining or extending moratorium.	1. On indictment. 2. Summary.	2 years or a fine or both. 6 months or the statutory maximum or both.
13H(5)	Directors failing to notify regulator	1. On indictment.	2 years or a fine or both.

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	of qualifying decision procedure in relation to regulated company	2. Summary.	6 months or the statutory maximum or both.]	
[^{F129} 19A(1).]	[^{F129} False representation or fraud for purpose of obtaining members' or creditor's approval of proposed voluntary arrangement.]	[^{F129} 1. On indictment.] [^{F129} 2. Summary.]	[^{F129} 7 years or a fine, or both.] [^{F129} 6 months or the statutory maximum, or both.]	
F130	F130	F130	F130	
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40	Body corporate acting as receiver.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	
41(1)	^{F131} ... bankrupt [^{F132} or person in respect of whom a debt relief order is made] acting as receiver or manager.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	

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48(4)	Receiver failing to deliver accounts to registrar.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
49(2)	Company and others failing to state in correspondence that receiver appointed.	Summary.	One#fifth of the statutory maximum.	
53(6)	Administrative receiver failing to file [^{F133} copy] of order permitting disposal or charged property.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
55(5)	Administrative receiver failing to file notice of vacation of office.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
56(4)	Administrative receiver failing to give notice of his appointment.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
57(6)	Failure to comply with provisions relating to statement of affairs, where administrative receiver appointed.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	One#tenth of the statutory maximum.
58(8)	Administrative receiver failing to comply with requirements as to his report.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
71(2) F134	Company failing to give notice in Belfast Gazette of resolution for voluntary winding up.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
75(4) F134	Director making statutory declaration of company's solvency without	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory	

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	reasonable grounds for his opinion.		maximum, or both.	
75(6)	Declaration under Article 75 not delivered to registrar within prescribed time.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
79(3) F134	Liquidator failing to summon general meeting of company at each year's end.	Summary.	One#fifth of the statutory maximum.	
80(4)	Liquidator failing to send to registrar a copy of account of winding up and return of final meeting.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
80(6)	Liquidator failing to call final meeting.	Summary.	One#fifth of the statutory maximum.	
81(6)	Liquidator failing to comply with Article 81 where company insolvent.	Summary.	The statutory maximum.	
84(4)	Company failing to comply with Article 84 in respect of summoning and giving notice of creditors' meeting.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	
85(3) F134	Directors failing to attend and lay statement in prescribed form before creditors' meeting.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	
91(3) F134	Liquidator failing to summon company general meeting and creditors' meeting at each year's end.	Summary.	One#fifth of the statutory maximum.	

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92(4)	Liquidator failing to send to registrar account of winding up and return of final meetings.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
92(6) F134	Liquidator failing to call final meeting of company or creditors.	Summary.	One#fifth of the statutory maximum.	
95(2)	Liquidator failing to publish, or deliver to the registrar, notice of his appointment.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
99(4)	Directors exercising powers in breach of Article 99, where no liquidator.	Summary.	The statutory maximum.	
111(7)	Failing to comply with requirements as to statement of affairs, where liquidator appointed.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	One#tenth of the statutory maximum.
139	Giving, offering, etc., corrupt inducement affecting appointment of liquidator.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	
141(7)	Liquidator failing to comply with requirements of Article 141 in creditors' voluntary winding up.	Summary.	The statutory maximum.	
159(2)	Default in compliance with Article 159 as to notification that company being wound up.	Summary.	One#fifth of the statutory maximum.	
162(2)	Liquidator failing to notify registrar	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.

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	as to progress of winding up.			
166(4)	Failing to deliver to registrar [F135copy] of High Court order deferring dissolution.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
168(6)	Failing to deliver to registrar copy of directions or result of appeal under Article 168.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
169(5)	Failing to deliver to registrar copy of Department's directions or High Court order deferring dissolution.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
170(1)	Fraud, etc., in anticipation of winding up.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
170(2)	Privity to fraud in anticipation of winding up; fraud, or privity to fraud, after commencement of winding up.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
171(1)	Officer of company entering into transaction in fraud of company's creditors.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	
172(1)	Officer of company misconducting himself in course of winding up.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
173	Officer or contributory destroying,	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory	

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	falsifying, etc., company's books.		maximum, or both.	
174(1)	Officer of company making material omission from statement relating to company's affairs.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
175(1)	False representation or fraud for purpose of obtaining creditors' consent to an agreement in connection with winding up.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.	
180(4)	Contravening restrictions on re#use of name of company in insolvent liquidation.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.	
199(5)	Failing to co# operate with office#holder.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	One#tenth of the statutory maximum.
[^{F136} 208O(1)]	False representations or omissions in making an application for a debt relief order.	1 On indictment 2 Summary	7 years or a fine, or both. 6 months or the statutory maximum, or both.]	
[^{F136} 208O(2)(a)]	Failing to comply with duty in connection with an application for a debt relief order.	1 On indictment 2 Summary	2 years or a fine, or both. 6 months or the statutory maximum, or both.]	
[^{F136} 208O(2)(b)]	False representations or omissions in connection with duty in relation to an application for a debt relief order.	1 On indictment 2 Summary	7 years or a fine, or both. 6 months or the statutory maximum, or both.]	
[^{F136} 208O(4)(a)]	Failing to comply with duty in connection with a debt relief order.	1 On indictment 2 Summary	2 years or a fine, or both. 6 months or the statutory	

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			maximum, or both.]
[^{F136} 208O(4)(b)]	False representations or omissions in connection with a duty in relation to a debt relief order.	<p>1 On indictment</p> <p>2 Summary</p>	<p>7 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.]</p>
[^{F136} 208P(1)]	Failing to deliver books, records and papers to official receiver, concealing or destroying them or making false entries in them by person in respect of whom a debt relief order is made.	<p>1 On indictment</p> <p>2 Summary</p>	<p>7 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.]</p>
[^{F136} 208P(2)]	Person in respect of whom debt relief order is made doing anything falling within sub-paragraphs (c) to (e) of Article 208P(1) during the period of 12 months ending with the application date or doing anything falling within sub-paragraphs (b) to (e) of Article 208P(1) after that date but before the effective date.	<p>1 On indictment</p> <p>2 Summary</p>	<p>7 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.]</p>
[^{F136} 208Q(1)]	Fraudulent disposal of property by person in respect of whom a debt relief order is made.	<p>1 On indictment</p> <p>2 Summary</p>	<p>2 years or a fine, or both.</p> <p>6 months or the statutory maximum, or both.]</p>
[^{F136} 208R(1)]	Disposal of property that is	1 On indictment	7 years or a fine, or both.

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	not paid for by person in respect of whom a debt relief order is made.	2 Summary	6 months or the statutory maximum, or both.]	
[^{F136} 208R(2)]	Obtaining property in respect of which money is owed by a person in respect of whom a debt relief order is made.	1 On indictment 2 Summary	7 years or a fine, or both. 6 months or the statutory maximum, or both.]	
[^{F136} 208S(1)]	Person in respect of whom a debt relief order is made obtaining credit or engaging in business without disclosing his status or name.	1 On indictment 2 Summary	2 years or a fine, or both. 6 months or the statutory maximum, or both.]	
217(2)	Default in compliance with Article 374 as to notification that deed is void.	Summary.	One#fifth of the statutory maximum.	
^{F137} ...	^{F137} ...	^{F137} ...	^{F137} ...	^{F137} ...
222(3)	Failing to transmit accounts.	Summary.	One#fifth of the statutory maximum.	One#fiftieth of the statutory maximum.
223	Preferential payment to creditor.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	
[^{F129} 236A(1).]	[^{F129} False representation or fraud for purpose of obtaining creditor's approval of proposed voluntary arrangement.]	[^{F129} 1. On indictment.] [^{F129} 2. Summary.]	[^{F129} 7 years or a fine, or both.] [^{F129} 6 months or the statutory maximum, or both.]	
324(1) ^{F134}	Bankrupt failing to disclose property or disposals to	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory	

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	official receiver or trustee.		maximum, or both.
325(1) F134	Bankrupt failing to deliver property to, or concealing property from, official receiver or trustee.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
325(3) F134	Bankrupt removing property which he is required to deliver to official receiver or trustee.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
325(5) F134	Bankrupt failing to account for loss of substantial part of property.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
326(1) F134	Bankrupt failing to deliver books, papers and records to official receiver or trustee.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
326(2) F134	Bankrupt concealing, destroying etc., books, papers or records, or making false entries in them.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
326(3) F134	Bankrupt disposing of, or altering, books, papers or records relating to his estate or affairs.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
327(1) F134	Bankrupt making material omission in statement relating to his affairs.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
327(3) F134	Bankrupt making false statement, or	1. On indictment. 2. Summary.	7 years or a fine, or both.

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	failing to inform trustee, where false debt proved.		6 months or the statutory maximum, or both.
328(1) F134	Bankrupt fraudulently disposing of property.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
328(3) F134	Bankrupt conceals or removes property.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
329(1) F134	Bankrupt absconding with property he is required to deliver to official receiver or trustee.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
330(1) F134	Bankrupt disposing of property obtained on credit and not paid for.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
330(3) F134	Obtaining property in respect of which money is owed by a bankrupt.	1. On indictment. 2. Summary.	7 years or a fine, or both. 6 months or the statutory maximum, or both.
331(1) F134	Bankrupt obtaining credit or engaging in business without disclosing his status or name in which he was made bankrupt.	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.
331(3) F134	Person made bankrupt in England, Wales or Scotland obtaining credit,	1. On indictment. 2. Summary.	2 years or a fine, or both. 6 months or the statutory maximum, or both.

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[^{F140} Sch. B1, para. 19(7).	Making false statement in statutory declaration where administrator appointed by holder of floating charge.	1. On indictment. 2. Summary.	2 years, or a fine or both. 6 months, or the statutory maximum or both.]	
[^{F140} Sch. B1, para. 21.	Holder of floating charge failing to notify administrator or others of commencement of appointment.	1. On indictment. 2. Summary.	2 years, or a fine or both. 6 months, or the statutory maximum or both.	One-tenth of the statutory maximum.]
[^{F140} Sch. B1, para. 28(4).	Making false statement in statutory declaration where appointment of administrator proposed by company or directors.	1. On indictment. 2. Summary.	2 years, or a fine or both. 6 months, or the statutory maximum or both.]	
[^{F140} Sch. B1, para. 30(7).	Making false statement in statutory declaration where administrator appointed by company or directors.	1. On indictment. 2. Summary.	2 years, or a fine or both. 6 months, or the statutory maximum or both.]	

Status: Point in time view as at 26/06/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 23 June 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)

[^{F140} Sch. B1, para. 33.	Company or directors failing to notify administrator or others of commencement of appointment.	1. On indictment. 2. Summary.	2 years, or a fine or both. 6 months, or the statutory maximum or both.	One-tenth of the statutory maximum.]
[^{F140} Sch. B1, para. 46(2).	Administrator, company or officer failing to state in business document that administrator appointed.	Summary.	One-fifth of the statutory maximum.]	
[^{F140} Sch. B1, para. 47(9).	Administrator failing to give notice of his appointment.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 49(4).	Failing to comply with provisions about statement of affairs where administrator appointed.	1. On indictment. 2. Summary.	A fine. The statutory maximum.	One-tenth of the statutory maximum.]
[^{F140} Sch. B1, para. 50(7).	Administrator failing to send out statement of his proposals.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 52(5).	Administrator failing to arrange initial creditors' meeting.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 54(3).	Administrator failing to report decision taken at initial creditors' meeting.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 55(7).	Administrator failing to report decision taken at creditors' meeting summoned to consider revised proposal.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 57(2).	Administrator failing to summon creditors' meeting.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]

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[^{F140} Sch. B1, para. 72(6).	Administrator failing to file Court order enabling disposal of charged property.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 73(5).	Administrator failing to file Court order enabling disposal of hire-purchase property.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 78(3).	Administrator failing to notify registrar of automatic end of administration.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 79(6).	Administrator failing to give notice of extension by consent of term of office.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 81(6).	Administrator failing to give notice of termination of administration where objective achieved.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 85(9).	Administrator failing to comply with provisions where company moves to dissolution.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 87(3).	Administrator failing to notify registrar where court terminates administration.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]
[^{F140} Sch. B1, para. 90(3).	Administrator failing to give notice on ceasing to be qualified.	Summary.	One-fifth of the statutory maximum.	One-fiftieth of the statutory maximum.]

F128 Entries in [Sch. 7](#) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), s. 49(1), [Sch. 7 para. 29\(3\)](#) (with ss. 2(2), 5(2))

Status: Point in time view as at 26/06/2020.

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- F129** 2002 NI 6
- F130** Entries in Sch. 7 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 47(3), Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 27**) ; Sch. 7 entries relating to arts. 28(8), 30(5) continue to apply for certain purposes and are amended (1.10.2009) by S.I. 2009/1941, arts. 2(1), 8, **Sch. 1 para. 114(2)** (with art. 10)
- F131** Word in entry in Sch. 7 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. 17(a), Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**)
- F132** Words in Sch. 7 inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(15)(a)**; S.R. 2011/13, **art. 2**
- F133** Word in Sch. 7 in entry relating to "Article 53(6)" 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. 114(2)** (with art. 10)
- F134** mod. by SR 2004/307
- F135** Word in Sch. 7 in entry relating to "Article 166(4)" 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. 114(2)** (with art. 10)
- F136** Entries in Sch. 7 inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(15)(b)**; S.R. 2011/13, **art. 2**
- F137** Words in Sch. 7 repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), **Sch. 4**; S.R. 2016/203, art. 2
- F138** Entries in Sch. 7 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. 17(b), Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**)
- F139** Entries in Sch. 7 omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 7 para. 29(2)** (with ss. 2(2), 5(2))
- F140** Entries in Sch. 7 inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 47(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**)

SCHEDULE 8

Article 379.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

COMPANY INSOLVENCY AND WINDING UP

Administration orders

1.—(1) Where any right to appoint an administrative receiver of a company is conferred by any debentures or floating charge created before the commencement date, the conditions precedent to the exercise of that right are deemed to include the presentation of a petition applying for an administration order to be made in relation to the company.

(2) In sub#paragraph (1) “administrative receiver” has the meaning assigned by Article 5(1).

Status: Point in time view as at 26/06/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 23 June 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)

Receivers and managers

2.—(1) Parts IV and VII do not apply in relation to any receiver or manager of a company's property who was appointed before the commencement date.

(2) In relation to any such receiver or manager as is mentioned in sub#paragraph (1) [^{F141}the Companies (Northern Ireland) Order 1986] has effect without the amendments and repeals specified in Article 12 and in Schedules 9 and 10.

(3) This paragraph is without prejudice to the power conferred by this Order under which rules under Article 359 may make transitional provision in connection with the coming into operation of those rules; and such provision may apply those rules in relation to the receiver or manager of a company's property notwithstanding that he was appointed before the coming into operation of the rules or Article 359.

F141 Words in Sch. 8 para. 2 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. 114(3) (with art. 10)

Winding up already in progress

3.—(1) Subject to the following provisions of this Part, Parts V to VII do not apply in relation to any winding up which has commenced, or is treated as having commenced, before the commencement date.

(2) In relation to any such winding up as is mentioned in sub#paragraph (1) the statutory provisions specified in Schedules 9 and 10 have effect without the amendments and repeals specified in Article 13 and in those Schedules.

(3) Where any instrument made under a statutory provision referred to in sub#paragraph (2) is in operation immediately before the commencement date, that instrument continues to have effect on and after that date in relation to any such winding up as is mentioned in sub#paragraph (1).

Statement of affairs

4.—(1) Where a winding up by the High Court has commenced, or is treated as having commenced, before the commencement date, the official receiver or (on appeal from a refusal by him) the Court may, at any time on or after that date—

- (a) release a person from an obligation imposed on him by or under Article 489 of [^{F142}the Companies (Northern Ireland) Order 1986] (statement of affairs), or
- (b) extend the period specified in paragraph (6) of that Article.

(2) Accordingly, on and after the commencement date, Article 489(6) of [^{F143}the Companies (Northern Ireland) Order 1986] has effect in relation to a winding up to which this paragraph applies with the omission of the words from “or within” onwards.

F142 Words in Sch. 8 para. 4(1)(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. 114(3) (with art. 10)

F143 Words in Sch. 8 para. 4(2) 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. 114(3) (with art. 10)

Status: Point in time view as at 26/06/2020.

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Provisions relating to liquidator

5.—(1) This paragraph applies as regards the liquidator in the case of a winding up by the High Court commenced, or treated as having commenced, before the commencement date.

(2) The official receiver may, at any time when he is liquidator of the company, apply to the Department for the appointment of a liquidator in his (the official receiver's) place; and on any such application the Department shall either make an appointment or decline to make one.

(3) Where immediately before the appointed day the liquidator of the company has not made an application under Article 506 of [^{F144}the Companies (Northern Ireland) Order 1986] (release of liquidators), then—

- (a) except where the Department otherwise directs, Articles 124(1) and (2) and 146(7) of this Order apply, and Article 508 of [^{F145}the Companies (Northern Ireland) Order 1986] does not apply, in relation to any liquidator of that company who holds office on or at any time after the commencement date and is not the official receiver;
- (b) Article 124(3) of this Order applies in relation to the carrying out at any time after that date by any liquidator of the company of any of his functions; and
- (c) a liquidator in relation to whom Article 146(7) of this Order has effect by virtue of this paragraph has his release with effect from the time specified in Article 148(4)(d) of this Order.

(4) Paragraph (6) of Article 148 of this Order has effect for the purposes of sub#paragraph (3) (c) as it has for the purposes of that Article, but as if the reference to Article 176 were to Article 584 of [^{F146}the Companies (Northern Ireland) Order 1986].

F144 Words in Sch. 8 para. 5(3) 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. 114(3)** (with art. 10)

F145 Words in Sch. 8 para. 5(3)(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. 114(3)** (with art. 10)

F146 Words in Sch. 8 para. 5(4) 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. 114(3)** (with art. 10)

Saving for power to make rules

6. Paragraphs 3 to 5 are without prejudice to the power conferred by this Order under which rules made under Article 359 may make transitional provision in connection with the coming into operation of those rules; and such provision may apply those rules in relation to a winding up notwithstanding that the winding up commenced, or is treated as having commenced, before the coming into operation of the rules or Article 359.

Setting aside of preferences and other transactions

7.—(1) Where a provision in Part V of this Order applies in relation to a winding up or in relation to a case in which an administration order has been made, a preference given, floating charge created or other transaction entered into before the commencement date shall not be set aside under that provision except to the extent that it could have been set aside under the law in operation immediately before that date, assuming for this purpose that any relevant administration order had been a winding#up order.

Status: Point in time view as at 26/06/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 23 June 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)

(2) The references in sub#paragraph (1) to setting aside a preference, floating charge or other transaction include the making of an order which varies or reverses any effect of a preference, floating charge or other transaction.

PART II

INDIVIDUAL INSOLVENCY

Bankruptcy general

8.—(1) Subject to the following provisions of this Part, Parts VIII to X do not apply in relation to any case in which a bankruptcy petition was presented, or an adjudication in bankruptcy was made, before the commencement date.

(2) In relation to any such case as is mentioned in sub#paragraph (1), the statutory provisions specified in Schedules 9 and 10, so far as they relate to bankruptcy, have effect without the amendments and repeals specified in those Schedules.

(3) Where any instrument made under a statutory provision referred to in sub#paragraph (2) is in operation immediately before the commencement date, that instrument continues to have effect on and after that date in relation to any such case as is mentioned in sub#paragraph (1).

9.—(1) In relation to any such case as is mentioned in paragraph 8(1) the references in any statutory provision to a petition, order or other matter which is provided for under the Bankruptcy Acts and corresponds to a petition, order or other matter provided for under provisions of Parts VIII to X of this Order continue on and after the commencement date to have effect as references to the petition, order or matter provided for by those Acts.

(2) Without prejudice to sub#paragraph (1), in determining for the purposes of Article 253 (period of bankruptcy) or paragraph 11 whether any person was an undischarged bankrupt at a time before the commencement date, an adjudication in bankruptcy and an annulment of a bankruptcy under the Bankruptcy Acts are to be taken into account in the same way, respectively, as a bankruptcy order under the provisions of Parts VIII to X of this Order and the annulment under Article 256 of this Order of such an order.

10. Transactions entered into before the commencement date have effect on and after that date as if references to acts of bankruptcy in the provisions for giving effect to those transactions continued to be references to acts of bankruptcy within the meaning of section 21 of the Bankruptcy (Ireland) Amendment Act 1872^{F147} but as if such acts included failure to comply with a statutory demand served under Article 242 of this Order.

F147 1872 c. 58

Discharge from old bankruptcy

11.—(1) Where a person—

- (a) was adjudged bankrupt before the commencement date or is adjudged bankrupt on or after that date on a petition presented before that date, and
- (b) that person was not an undischarged bankrupt at any time in the period of 15 years ending with the adjudication,

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that person is deemed (if not previously discharged) to be discharged from his bankruptcy for the purposes of the Bankruptcy Acts, at the end of the discharge period.

- (2) Subject to sub#paragraph (3), the discharge period for the purposes of this paragraph is—
- (a) in the case of a person adjudged bankrupt before the commencement date, the period of 3 years beginning with that date, and
 - (b) in the case of a person who is adjudged bankrupt on or after that date on a petition presented before that date, the period of 3 years beginning with the date of the adjudication.

(3) Where the High Court exercising jurisdiction in relation to a bankruptcy to which this paragraph applies is satisfied, on the application of the official receiver, that the bankrupt has failed, or is failing, to comply with any of his obligations under the Bankruptcy Acts, any rules made under those Acts or any such rules as are mentioned in paragraph 16(1), the Court may order that the discharge period shall cease to run for such period, or until the fulfilment of such conditions (including a condition requiring the Court to be satisfied as to any matter) as may be specified in the order.

Provisions relating to trustee

12.—(1) This paragraph applies as regards the trustee in the case of a person adjudged bankrupt before the commencement date, or adjudged bankrupt on or after that date on a petition presented before that date.

(2) Where on the commencement date the trustee of a bankrupt's estate has not made an application under Article 27 of the Bankruptcy Amendment (Northern Ireland) Order 1980^{F148} as applied by Article 39 of that Order (release of trustee), then—

- (a) except where the Department otherwise directs, Articles 271(7), 277 and 304(1) to (3) of this Order apply, and Article 27 of that Order of 1980 as applied by Article 39 of that Order does not apply, in relation to any trustee of the bankrupt's estate who holds office on or at any time after the commencement date;
- (b) Article 304(4) of this Order applies in relation to the carrying out at any time on or after the commencement date by the trustee of the bankrupt's estate of any of his functions; and
- (c) a trustee in relation to whom Article 271(7) of this Order has effect by virtue of this paragraph has his release with effect from the time specified in Article 272(3)(d).

(3) Paragraph (5) of Article 272 has effect for the purposes of sub#paragraph (2)(c) as it has for the purposes of that Article.

(4) In the application of paragraph (3) of Article 304 in relation to a case by virtue of this paragraph, the reference in that paragraph to Article 303(1) has effect as a reference to Article 22(7) and (8) of the Bankruptcy Amendment (Northern Ireland) Order 1980 as applied by Article 39 of that Order of 1980.

(5) The trustee of the bankrupt's estate may employ a solicitor to assist him in the carrying out of his functions without the permission of the committee of inspection; but if he does so employ a solicitor, he shall inform the committee of inspection that he has done so.

F148 1980 NI 4

Status: Point in time view as at 26/06/2020.

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Second bankruptcy

13.—(1) Articles 307 and 308 of this Order apply with the following modifications where the earlier bankruptcy (within the meaning of Article 307) is a bankruptcy in relation to which the Bankruptcy Acts apply instead of Parts VIII to X of this Order, that is to say—

- (a) references to the existing trustee include references to the assignees of the bankrupt's estate for the purposes of the earlier bankruptcy; and
- (b) references to property vested in the existing trustee under Article 280(3) of this Order have effect as references to such property vested in that trustee as was acquired by or devolved on the bankrupt after the commencement (within the meaning of the Bankruptcy Acts) of the earlier bankruptcy; and
- (c) references to an order under Article 283 of this Order have effect as references to an order under section 319 of the Irish Bankrupt and Insolvent Act 1857^{F149} or section 51 of the Bankruptcy (Ireland) Amendment Act 1872^{F150}.

(2) Section 11 of the Bankruptcy Amendment Act (Northern Ireland) 1929^{F151} (second bankruptcy) does not apply where a person who is an undischarged bankrupt under the Bankruptcy Acts is adjudged bankrupt under this order.

F149 1857 c. 60

F150 1872 c. 58

F151 1929 c. 1 (NI)

Setting aside of preferences and other transactions

14.—(1) A preference given, assignment made or other transaction entered into before the commencement date shall not be set aside under any of Articles 312 to 317 of this Order except to the extent that it could have been set aside under the law in operation immediately before that date.

(2) References in sub#paragraph (1) to setting aside a preference, assignment or other transaction include the making of any order which varies or reverses any effect of a preference, assignment or other transaction.

Bankruptcy offences

15.—(1) Where a bankruptcy order is made under this Order on or after the commencement date, a person is not guilty of an offence under Chapter VI of Part IX in respect of anything done before that date; but, notwithstanding the repeal by Article 382 and Schedule 10 of sections 11, 12 and 13(4) of the Debtors (Ireland) Act 1872^{F152} and sections 25 and 26 of the Bankruptcy Amendment Act (Northern Ireland) 1929 is guilty of an offence under the Act of 1872 or 1929 in respect of anything done before the commencement date which would have been an offence under that Act if the making of the bankruptcy order had been the making of an adjudication order under the Bankruptcy Acts.

(2) Paragraph (5) of Article 321 of this Order applies (instead of section 25(2) or 26(2) of the Bankruptcy Amendment Act (Northern Ireland) 1929) in relation to proceedings for an offence under that Act which are instituted (whether by virtue of sub#paragraph (1) or otherwise) after the commencement date.

F152 1872 c. 57

Status: Point in time view as at 26/06/2020.

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Power to make rules

16.—(1) The preceding provisions of this Part of this Schedule are without prejudice to the power conferred by this Order under which rules under Article 359 may make transitional provision in connection with the coming into operation of those rules; and such provision may apply those rules in relation to a bankruptcy notwithstanding that it arose from a petition presented before either the coming into operation of the rules or the commencement date.

(2) Rules under Article 359 may provide for such debtor's summons served before the commencement date as may be prescribed to be treated for the purposes of this Order as statutory demands served under Article 242.

PART III

OTHER TRANSITIONAL PROVISIONS AND SAVINGS

F153 ...

F153 Sch. 8 para. 17 and cross-heading repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), Sch. 4; S.R. 2016/203, art. 2

F153 17.

Insolvency practitioners

18. Where an individual began to act as an insolvency practitioner in relation to any person before the commencement date, nothing in Article 349(2) or (3) prevents that individual from being qualified to act as an insolvency practitioner in relation to that person.

Official receiver

19. Any property vested in the Official Assignee for bankruptcy for Northern Ireland, either alone or together with a creditor's assignee, before the commencement date, shall, on that date, vest in the official receiver without any conveyance, assignment or transfer.

Transitional effect of Articles 367 to 369

20.—(1) A transaction entered into before the commencement date shall not be set aside under Articles 367 to 369 except to the extent that it could have been set aside under the law in operation immediately before that date.

(2) References in sub#paragraph (1) to setting aside a transaction include the making of any order which varies or reverses any effect of a transaction.

Periods of time

21. Where any period of time specified in any provision repealed by Article 382 and Schedule 10 is current immediately before the commencement date, this Order has effect as if the corresponding provision had been in operation when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current is deemed for the purposes of this Order—

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- (a) to run from the date or event from which it was running immediately before the commencement date, and
- (b) to expire (subject to any provision of this Order for its extension) whenever it would have expired if this Order had not come into operation;

and any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such a period shall be under this Order as they were or would have been under that repealed provision.

Saving

22. The provisions of this Schedule shall have effect without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954^{F154}.

F154 1954 c. 33 (NI)

Interpretation

23. In this Schedule—

“the Bankruptcy Acts” means the Bankruptcy Acts (Northern Ireland) 1857 to 1980^{F155F156F157F158F159};

“the commencement date” for the purpose of any provision of this Schedule, means the day appointed under Article 1(2) for the coming into operation of that provision.

F155 1857 c. 60

F156 1872 c. 58

F157 1929 c. 1 (NI)

F158 1963 c. 23 (NI)

F159 1980 NI 4

Schedule 9—Amendments

Schedule 10—Repeals

Status:

Point in time view as at 26/06/2020.

Changes to legislation:

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