
STATUTORY INSTRUMENTS

1990 No. 1504

The Companies (No. 2) (Northern Ireland) Order 1990

PART V

FINANCIAL MARKETS AND INSOLVENCY

Market charges

Administration orders, etc.

97.—^{F1}(1) The following provisions of the Insolvency Order (which relate to administration orders and administrators) do not apply in relation to a market charge—

(a) Articles 23(1)(b) and 24(3)(c) (restriction on enforcement of security while petition for administration order pending or order in force), and

(b) Article 28(1) and (2) (power of administrator to deal with charged property);

and Article 24(2) of that Order (receiver to vacate office when so required by administrator) does not apply to a receiver appointed under a market charge.

(2) However, where a market charge falls to be enforced after^{F1} an administration order has been made or a petition for an administration order has been presented, and there exists another charge over some or all of the same property ranking in priority to or *pari passu* with the market charge,^{F2} on the application of any person interested] the court may order that there shall be taken after enforcement of the market charge such steps as the court may direct for the purpose of ensuring that the chargee under the other charge is not prejudiced by the enforcement of the market charge.

^{F3}(3) Article 53 of the Insolvency Order (power of administrative receiver to dispose of charged property) does not apply in relation to a market charge.

(4) Articles 107 and 257 of the Insolvency Order (avoidance of property dispositions effected after commencement of winding up or presentation of bankruptcy petition) do not apply to a disposition of property as a result of which the property becomes subject to a market charge or any transaction pursuant to which that disposition is made.

(5) However, if a person (other than the chargee under the market charge) who is party to a disposition mentioned in paragraph (4) has notice at the time of the disposition that a petition has been presented for the winding up or bankruptcy of the party making the disposition, the value of any profit to him arising from the disposition is recoverable from him by the relevant office-holder unless the court directs otherwise.

(6) Any sum recoverable by virtue of paragraph (5) ranks for priority, in the event of the insolvency of the person from whom it is due, immediately before preferential debts.

(7) In a case falling within both paragraph (4) (as a disposition of property as a result of which the property becomes subject to a market charge) and Article 87(2) (as the provision of margin in relation to a market contract), Article 87(3) applies with respect to the recovery of the amount or value of the margin and paragraph (5) does not apply.

Status: Point in time view as at 01/01/2006. This version of this provision has been superseded.
Changes to legislation: There are currently no known outstanding effects for the The Companies
(No. 2) (Northern Ireland) Order 1990, Section 97. (See end of Document for details)

- F1** prosp. (until 27/03/06) subst. by [2005 NI 10](#)
- F2** SR 1991/443
- F3** prosp. (until 27/03/06) insertion by [2005 NI 10](#)

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