
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 Schedule B1 to the Insolvency Order (administration) do not apply in relation to a market charge—

- (a) paragraph 44(2) and (3) (restriction on enforcement of security or repossession of goods) (including that provision as applied by paragraph 45 (interim moratorium)), and
- (b) paragraphs 71, 72 and 73 (power of administrator to deal with charged or hire-purchase property).

(1A) Paragraph 42(2) of that Schedule (receiver to vacate office at request of administrator) does not apply to a receiver appointed under a market charge.]

(2) However, where a market charge falls to be enforced after^[F2]the occurrence of an event to which paragraph (2A) applies], and there exists another charge over some or all of the same property ranking in priority to or *pari passu* with the market charge,^[F3] 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.

^[F4](2A) This paragraph applies to—

- (a) making an administration application under paragraph 13 of Schedule B1 to the Insolvency Order,
- (b) appointing an administrator under paragraph 15 or 23 of that Schedule (appointment by floating charge holder, company or directors),
- (c) filing with the Court a copy of notice of intention to appoint an administrator under either of those paragraphs.]

(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

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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)

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.

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| <p>F1 Art. 97(1)(1A) 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. 52(2); S.R. 2006/21, art. 2 (with transitional provisions and savings in S.R. 2006/22, arts. 2-7)</p> <p>F2 Words in art. 97(2) 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. 52(3); S.R. 2006/21, art. 2 (with transitional provisions and savings in S.R. 2006/22, arts. 2-7)</p> <p>F3 SR 1991/443</p> <p>F4 Art. 97(2A) 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. 52(4); S.R. 2006/21, art. 2 (with transitional provisions and savings in S.R. 2006/22, arts. 2-7)</p> |
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