
STATUTORY INSTRUMENTS

1997 No. 274

The Construction Contracts (Northern Ireland) Order 1997

Payment

Prohibition of conditional payment provisions

12.—(1) A provision making payment under a construction contract conditional on the payer receiving payment from a third person is ineffective, unless that third person, or any other person payment by whom is under the contract (directly or indirectly) a condition of payment by that third person, is insolvent.

(2) For the purposes of this Article a company becomes insolvent—

- [^{F1}(a) when it enters administration within the meaning of Schedule B1 to the Insolvency (Northern Ireland) Order 1989,]
- (b) on the appointment of an administrative receiver or a receiver or manager of its property under Part IV of that Order,
- (c) on the passing of a resolution for voluntary winding-up without a declaration of solvency under Article 75 of that Order, or
- (d) on the making of a winding-up order under Part V or Part VI of that Order.

(3) For the purposes of this Article a partnership becomes insolvent on the making of a winding-up order against it under any provision of the Insolvency (Northern Ireland) Order 1989 as applied by an order under Article 364 of that Order.

(4) For the purposes of this Article an individual becomes insolvent on the making of a bankruptcy order against him under Part IX of the Insolvency (Northern Ireland) Order 1989.

(5) A company, partnership or individual shall also be treated as insolvent on the occurrence of any event corresponding to those specified in paragraph (2), (3) or (4) under the law of England and Wales, or of Scotland, or of a country outside the United Kingdom.

(6) Where a provision is rendered ineffective by paragraph (1), the parties are free to agree other terms for payment.

In the absence of such agreement, the relevant provisions of the Scheme apply.

F1 Art. 12(2)(a) 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. 55](#); S.R. 2006/21, [art. 2](#) (subject to transitional provisions in S.R. 2006/22, arts. 2-7)

Changes to legislation:

There are currently no known outstanding effects for the The Construction Contracts (Northern Ireland) Order 1997, Section 12.