

*These notes refer to the Insolvency (Amendment) Act (Northern Ireland) 2016 (c.2) which received Royal Assent on 29 January 2016*

# Insolvency (Amendment) Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### BACKGROUND AND POLICY OBJECTIVES

3. Insolvency legislation in Northern Ireland is kept as far as possible in parity with that applying in England and Wales.
4. The insolvency legislation applying in both jurisdictions needed to be updated to allow for the use of modern means of electronic communication and to do away with certain procedures and requirements which had outlived their usefulness.
5. The main piece of primary legislation applying to insolvency in GB is the [Insolvency Act 1986 \(c. 45\)](#). This Act was amended by the [Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010 No. 18\)](#) which came into force on 6 April 2010. This Order was made with the object of making the administration of insolvencies faster, more efficient and less expensive, by legitimising the use of up-to-date methods of communication and doing away with burdensome and unnecessary procedural requirements.
6. There was a need to make, where appropriate, similar changes to the main primary legislation applying to insolvency in Northern Ireland, the [Insolvency \(Northern Ireland\) Order 1989 \(NI 19\)](#) (“the Insolvency Order”).
7. A second objective was to undo the provision in the Insolvency Order enabling discharge from bankruptcy to take place before the end of the first year if investigation was unnecessary or complete. The provision had been little used in Northern Ireland and the corresponding provision applying in England and Wales had been repealed because early discharge had proved costly to administer in comparison to the limited benefits it brought.
8. A third objective was to tidy up the statute book by repealing the provisions in the Insolvency Order relating to Deeds of Arrangement which had fallen into disuse.
9. A fourth objective was to make sure that the Lord Chief Justice is consulted about the making of orders creating a right of appeal to the courts in respect of discretionary disqualification from office as a consequence of bankruptcy.

10. A fifth objective was to do away with authorisation of insolvency practitioners by competent authorities and to enable recognised professional bodies to authorise insolvency practitioners to take only personal or corporate insolvencies as an alternative to being authorised to deal with both.
11. A sixth objective was to strengthen the regulatory framework for insolvency practitioners and the recognised professional bodies which authorise and regulate them by introducing regulatory objectives for the recognised professional bodies and a range of proportionate powers which the Department as oversight regulator can use should they fail to meet these objectives.
12. A seventh objective was to undo the provision under which individuals other than insolvency practitioners could be authorised to act as nominees or supervisors in voluntary arrangements.
13. An eighth objective was to remove an obstacle to banks offering accounts to undischarged bankrupts by giving banks immunity from claims by trustees in respect of sums of money passing through a bankrupt's account unless the trustee has made a specific claim to them.
14. A ninth objective was to correct an error in Article 10 of the Insolvency (Northern Ireland) Order 2005 which would have frustrated the Department's policy intention that it should have power to make orders providing for any credit union in Northern Ireland to be able to enter a company arrangement or administration.
15. A tenth objective was to make minor miscellaneous amendments to the Insolvency Order.