
STATUTORY INSTRUMENTS

1980 No. 561 (N.I. 4)

NORTHERN IRELAND

The Bankruptcy Amendment (Northern Ireland) Order 1980

Laid before Parliament in draft

Made

21st April 1980

Coming into operation on days to be appointed under Article 1 (3)

ARRANGEMENT OF ORDER

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At the Court at Windsor Castle, the 21st day of April 1980

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title, construction, citation and commencement

1.—(1) This Order may be cited as the Bankruptcy Amendment (Northern Ireland) Order 1980.

(2) This Order shall be construed as one with the Bankruptcy Acts (Northern Ireland) 1857 to 1963 (b) and may be cited together with those Acts as the Bankruptcy Acts (Northern Ireland) 1857 to 1980.

(3) This Order shall come into operation on such day or days as the Head of the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Act of 1857” means the Irish Bankrupt and Insolvent Act 1857 (d);

“the Act of 1872” means the Bankruptcy (Ireland) Amendment Act 1872 (e);

“arranging debtor” means a person who has presented a petition to the court under section 343 of the Act of 1857 (petition for protection of court presented by debtor unable to fulfil his engagements with his creditors);

“the Bankruptcy Acts” means the Bankruptcy Acts (Northern Ireland) 1857 to 1980;

“bankruptcy rules” means rules made under Article 33;

“deceased insolvent” means a deceased debtor in respect of whose estate an order for administration in bankruptcy has been made under section 21 of the Bankruptcy Amendment Act (Northern Ireland) 1929 (f);

“the Department” means the Department of Commerce;

“dividend” (except in Articles 22 and 27 (1) (a)) includes a composition payment, and references to a dividend being declared include references to a composition becoming payable;

“the Insolvency Account” means the Insolvency Account kept by the Department under Article 93 of the Companies (Northern Ireland) Order 1978 (g);

“the Official Assignee” means the Official Assignee for bankruptcy for Northern Ireland;

(a) 1974 c. 28. (b) 1857 c. 60; 1872 c. 58; 1929 c. 1 (N.I.); 1963 c. 23 (N.I.).

(c) 1954 c. 33 (N.I.). (d) 1857 c. 60. (e) 1872 c. 58.

(f) 1929 c. 1 (N.I.) (20 Geo. 5). (g) S.I. 1978/1042 (N.I. 12).

- “prescribed” means prescribed by bankruptcy rules;
- “provable debt” means any debt or liability which is provable in bankruptcy by virtue of Article 14;
- “regulations” means regulations under Article 34;
- “statutory provision” has the meaning given by section 1 (f) of the Interpretation Act (Northern Ireland) 1954.

The Official Assignee

The Official Assignee and Assistant Official Assignees

3.—(1) The Department shall appoint an officer of the Department as Official Assignee for bankruptcy for Northern Ireland, who shall be a corporation sole by that name.

(2) The Department may appoint one or more than one officer of the Department as Assistant Official Assignee for bankruptcy for Northern Ireland, and anything which is required or authorised to be done by or to the Official Assignee under the Bankruptcy Acts may be done by or to any officer appointed under this paragraph.

(3) The Official Assignee and any Assistant Official Assignee shall act under the general authority and direction of the Department, but shall also be officers of the court.

(4) Property vesting in the Official Assignee, either alone or together with a creditors' assignee, shall, unless and until disclaimed or disposed of, vest in his successor in office for the time being.

(5) Where there is a vacancy in the office at the time when property would otherwise have vested, the property shall vest and be deemed to have vested in the successor on his appointment.

Audit of Official Assignee's accounts

4.—(1) The Official Assignee shall furnish the Department with such accounts, returns, vouchers and information as the Department may require, and the Department may at any time require the production of, and inspect, any books or accounts kept by the Official Assignee.

(2) The Department may cause any account furnished under this Article to be audited.

(3) When the audit of an account has been completed, one copy of the account shall be filed and kept by the Department and the second copy shall be delivered to the court for filing.

(4) Where the Department determines not to cause an account to be audited, paragraph (3) shall apply as if it required copies of the account to be filed or delivered for filing forthwith.

(5) Subject to paragraph (6), the Official Assignee shall, either when the account has been audited or when he has been notified by the Department of its determination not to cause the account to be audited, send a copy of the account or a summary thereof to every creditor whose debt has been admitted in the bankruptcy.

(6) The Department may in any case dispense with compliance with paragraph (5).

The Insolvency Account

Transfer of funds to the Insolvency Account

5.—(1) All sums standing to the credit of—

(a) the account kept at the Bank of Ireland under section 61 of the Act of 1857; and

(b) the Unclaimed Dividend Account mentioned in section 295 of that Act; immediately before the day on which this Article comes into operation shall, on that day, be transferred to the Insolvency Account.

(2) Any investments made in accordance with the directions of the court under section 287 of the Act of 1857 which immediately before the day mentioned in paragraph (1) were held in respect of, or of part of, any estate shall on and after that day be deemed to be investments made by the Department under Article 93 (3) of the Companies (Northern Ireland) Order 1978 (investment of money standing to credit of Insolvency Account) and shall be dealt with in accordance with the directions of the Department.

Payments by Official Assignee into Insolvency Account

6.—(1) The Official Assignee shall cause all money received by him in respect of proceedings under the Bankruptcy Acts (other than fees fixed by regulations) to be lodged into the Insolvency Account.

(2) The Official Assignee shall cause to be credited to the Insolvency Account all sums payable in respect of dividends declared by him in proceedings under the Bankruptcy Acts where those sums have remained unclaimed for six months.

Separate accounts to be kept of particular estates

7.—(1) The Department shall maintain an account of the sums credited and debited to the Insolvency Account in respect of every bankrupt, arranging debtor or deceased insolvent for whose estate money has been received.

(2) Whenever the cash balance standing to the credit of the account of any estate is in excess of £2,000 or such other sum as may be fixed by regulations, the Department shall credit to the account of the estate interest on the excess at such rate as the Department and the Department of Finance may determine.

Acts of bankruptcy

Acts of bankruptcy

8. In section 21 of the Act of 1872 (acts or defaults to be treated as acts of bankruptcy)—

(a) for paragraph (4) there shall be substituted—

“(4) That the debtor has filed in the Court a declaration of his inability to pay his debts or has presented a bankruptcy petition against himself.”;

(b) after paragraph (5A) there shall be inserted the following paragraph—

“(5B) That an order has been made under section 10 (1) (f) of the Judgments (Enforcement) Act (Northern Ireland) 1969 (a) staying enforcement of a judgment against the debtor on the ground mentioned in subsection (2) of that section (that is to say, that having regard to the debtor's liabilities his property ought to be administered for the benefit of all his creditors).”;

(c) for paragraph (9) there shall be substituted—

“(9) That, the debtor being a solicitor, the Incorporated Law Society of Northern Ireland have been appointed his attorney by virtue of Part III of the Solicitors (Northern Ireland) Order 1976 (b).”.

Extension of time for complying with debtor's summons

9. In section 21 (6) of the Act of 1872 (neglect to pay, or secure or compound for, a debt of £200 or more within seven days of service of a debtor's summons

(a) 1969 c. 30 (N.I.).

(b) S.I. 1976/582 (N.I. 12).

to constitute an act of bankruptcy) for the words "has for the space of seven days" there shall be substituted the words "has for the space of 10 days".

Statement of affairs

Bankrupt's statement of affairs

10.—(1) A bankrupt shall make out and submit to the Official Assignee a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the bankrupt's assets, debts and liabilities, the names, addresses and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the Official Assignee may require.

(2) The statement shall be submitted within the prescribed period from the date of the order of adjudication of bankruptcy.

(3) If the bankrupt, without reasonable excuse, makes default in complying with the requirements of this Article, he shall be guilty of a contempt of court.

(4) When the bankrupt cannot himself prepare a proper statement of affairs, the Official Assignee may, subject to any prescribed conditions and at the expense of the bankrupt's estate, employ some person or persons to assist in the preparation of the statement of affairs.

(5) Any person stating himself in writing to be a creditor of the bankrupt shall be entitled by himself or by his agent at all reasonable times, on payment of the fee fixed by regulations, to inspect the statement submitted in pursuance of this Article and to copy the statement or any part of it.

(6) Any person who for the purposes of paragraph (5) untruthfully states himself to be a creditor shall be guilty of a contempt of court.

(7) A person who is guilty of a contempt of court by virtue of paragraph (3) or (6) shall, on the application of the Official Assignee, be punishable accordingly.

Examination of bankrupt

Public examination of bankrupt

11.—(1) Where the court makes an order of adjudication of bankruptcy it shall, save where it makes an order under paragraph (12) or Article 12, hold a public sitting, on a day to be appointed by the court, for examination of the bankrupt, and the bankrupt shall attend at the sitting and shall be examined as to his conduct, dealings and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the bankrupt's statement of affairs.

(3) The court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or his representative authorised in writing, may question the bankrupt concerning his affairs and the causes of his failure.

(5) The Official Assignee shall take part in the examination of the bankrupt, and for the purpose thereof may employ a solicitor with or without counsel.

(6) The court may put such questions to the bankrupt as it thinks expedient.

(7) The bankrupt shall be examined upon oath, and it shall be his duty to answer all such questions as the court may put or allow to be put to him.

(8) Such notes of the examination as the court thinks proper shall be taken down in writing, and shall be read over either to or by the bankrupt and signed by him, and may thereafter, subject to paragraph (10), be used in evidence

against him; they shall also be open to the inspection of any creditor at all reasonable times.

(9) Subject to prescribed conditions bankruptcy rules may provide that the bankrupt may adopt notes of any examination of him by the Official Assignee as, or as part of, his evidence.

(10) A statement or admission recorded in notes taken and signed under paragraph (8) or adopted under paragraph (9) shall not be used in evidence—

- (a) in any action against the bankrupt in a representative capacity; or
- (b) against the bankrupt or (unless they married after the making of the statement or admission) against the wife or husband of the bankrupt in any proceeding in respect of an offence under the Theft Act (Northern Ireland) 1969 (a) (including an offence for which proceedings are taken by virtue of section 7 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964 (b) (mutual rights of spouses to redress by way of criminal proceedings for protection of property)).

(11) When the court is of opinion that the affairs of the bankrupt have been sufficiently investigated, it shall by order declare that his examination is concluded.

(12) Where the bankrupt is a person of unsound mind or suffers from any such mental or physical affliction or disability as in the opinion of the court makes him unfit to attend his public examination, the court may make an order dispensing with such examination or directing that the bankrupt be examined on such terms, in such manner and at such place as to the court seems expedient.

Power to dispense with public examination

12.—(1) Without prejudice to Article 11 (12), the court may, if it thinks fit, make an order dispensing with the public examination of a bankrupt; and in determining whether to make an order the court shall have regard to all the circumstances of the case including, in particular:

- (a) whether the bankrupt has made a full disclosure of his affairs;
- (b) whether he has been adjudged bankrupt on a previous occasion;
- (c) the number and nature of his debts;
- (d) whether his bankruptcy would for any reason be a matter of public concern; and
- (e) such other matters as may be prescribed for the purposes of this paragraph.

(2) No order shall be made under paragraph (1) except on the application of the Official Assignee but the power of the court under Article 36 to review or rescind any such order may be exercised either on the application of the Official Assignee or on the application of the bankrupt or a creditor.

Proof of debts

Proof of debt for dividend or voting

13.—(1) A creditor is entitled to receive a dividend in respect of a debt claimed by him only if the debt—

- (a) is provable under Article 14; and
- (b) is proved under Article 15; and
- (c) is admitted, and not subsequently expunged, under Article 16.

(2) A creditor is entitled to receive a dividend only in respect of the amount of his debt admitted under Article 16 or, if the amount so admitted is reduced by the court under that Article, in respect of the amount of his debt as so reduced.

(a) 1969 c. 16 (N.I.).

(b) 1964 c. 23 (N.I.).

(3) For the purpose of a creditor's voting at a meeting of creditors, or at a sitting of the court, at any time before his debt has been admitted under Article 16, the debt may be admitted in whole or in part, or rejected, in such manner as may be prescribed.

Debts provable in bankruptcy

14.—(1) Subject to paragraphs (3) and (7), all debts and liabilities present or future, certain or contingent, to which the bankrupt is subject at the date of the order of adjudication of bankruptcy, or to which he may become subject before his discharge by reason of any obligation incurred before that date, shall be debts provable in bankruptcy.

(2) A creditor may prove for a debt not payable when the bankrupt committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the prescribed rate computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

(3) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable in bankruptcy.

(4) Notwithstanding paragraph (1), a person having notice of any act of bankruptcy available against the bankrupt shall not prove in the bankruptcy for any debt or liability contracted by the bankrupt subsequently to the date of his so having notice.

(5) An estimate shall be made by the Official Assignee of the value of any debt or liability provable as aforesaid, which, by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(6) Any person aggrieved by the estimate made by the Official Assignee under paragraph (5) may appeal to the court.

(7) If, in the opinion of the court, the value of the debt or liability is incapable of being fairly estimated, the court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Order, be deemed to be a debt not provable in bankruptcy.

(8) If, in the opinion of the court, the value of the debt or liability is capable of being fairly estimated, the court may itself assess the value and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(9) "Liability" shall, for the purposes of this Article, include—

(a) any compensation for work or labour done;

(b) any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring, before the discharge of the bankrupt;

(c) generally, any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the payment of, money or money's worth, whether the payment is,—

(i) as respects amount, fixed or unliquidated;

(ii) as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies;

(iii) as to mode of valuation, capable of being ascertained by fixed rules or as a matter of opinion.

Time and manner of proving debts

15.—(1) Every creditor shall prove his debt as soon as may be after the making of the order of adjudication of bankruptcy.

(2) A debt shall be proved in such manner as may be prescribed.

(3) A proof of debt shall state whether the creditor is or is not a secured creditor, and if it is found at any time that the proof made by or on behalf of a secured creditor has omitted to state that he is a secured creditor, the secured creditor shall surrender his security to the Official Assignee for the general benefit of the creditors unless the court on application is satisfied that the omission has arisen from inadvertence, and in that case the court may allow the proof to be amended upon such terms as to the repayment of any dividend or otherwise as the court may consider to be just.

Admission or rejection of proofs

16.—(1) The Official Assignee shall examine every proof and the grounds of the debt and in writing admit or reject it, in whole or in part, or require further evidence in support of it.

(2) If the Official Assignee rejects a proof he shall state in writing to the creditor the grounds of the rejection.

(3) If a creditor is dissatisfied with the decision of the Official Assignee in respect of the proof, the court may, on the application of the creditor, reverse or vary the decision.

(4) If the Official Assignee thinks that a proof has been improperly admitted, the court may, on the application of the Official Assignee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

(5) The court may also expunge or reduce a proof upon the application of a creditor or the bankrupt if the Official Assignee declines to interfere in the matter.

(6) A bankrupt may make an application under paragraph (5) only with the leave of the court.

Mutual credit and set-off

17.—(1) Where there have been mutual credits, mutual debts or other mutual dealings between a bankrupt and any other person proving or claiming to prove a debt in the bankruptcy, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively.

(2) A person shall not be entitled under this Article to claim the benefit of any set-off against the property of a bankrupt in any case where he had, at the time of giving credit to the bankrupt, notice of an act of bankruptcy committed by the bankrupt and available against him.

Distribution of bankrupt's property

Ranking of debts

18. Subject to Articles 19 and 20 and paragraph 13 of Schedule 1, all debts proved in a bankruptcy shall rank equally among themselves.

Preferential payments

19. Subject to Articles 20 and 21 and paragraph 13 of Schedule 1, in the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

(a) the following rates, taxes, deductions and duty—

- (i) all local rates, regional rate and district rate due from the bankrupt at the relevant date and having become due and payable within 12 months next before that date;
 - (ii) all income tax and capital gains tax assessed on the bankrupt up to 5th April next before the relevant date, and not exceeding in the whole, in either case, one year's assessment;
 - (iii) all development land tax assessed on the bankrupt up to 5th April next before the relevant date and not exceeding in the whole the amount of such tax the liability for which arose in one financial year;
 - (iv) any sums due from the bankrupt at the relevant date on account of tax deductions, as defined in section 30 (4) of the Finance Act 1952 (a), for the 12 months next before that date;
 - (v) any amount due from the bankrupt at the relevant date by way of the general betting duty under section 16 of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (b), or by virtue of section 24 (1) of that Act, which became due within 12 months next before that date;
 - (vi) the amount of any value added tax or car tax due from the bankrupt at the relevant date which became due within the 12 months next before that date;
 - (vii) any amounts due from the bankrupt at the relevant date in respect of deductions required to be made by him under section 69 of the Finance (No. 2) Act 1975 (c) (deductions on account of tax etc. from payments to certain sub-contractors in construction industry) for the 12 months next before that date;
- (b) the debts to which priority is accorded by section 144 of and Schedule 15 to the Social Security (Northern Ireland) Act 1975 (d) and Article 64 of and Schedule 4 to the Social Security Pensions (Northern Ireland) Order 1975 (e) (subject to certain limitations, Class 1, Class 2 and Class 4 contributions under that Act of 1975 or the Social Security Act 1975 (f), an earner's contributions to an occupational pension scheme, an employer's contributions to a contracted-out scheme and a state scheme premium);
- (c) all wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the bankrupt during four months next before the relevant date;
- (d) all wages (whether payable for time or for piece work) of any workman or labourer in respect of services rendered to the bankrupt during four months next before the relevant date;
- (e) all accrued holiday remuneration becoming payable to any clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment with the bankrupt before or by the effect of the order of adjudication;
- (f) any sum ordered under the Reinstatement in Civil Employment Act 1944 (g), Part II of the National Service Act 1948 (h) or the Reinstatement in Civil Employment Act 1950 (i) to be paid by way of compensation where the default by reason of which the order for compensation was made occurred before the relevant date, whether or not the order for compensation was made before that date.

(a) 1952 c. 33. (b) 1972 c. 11 (N.I.). (c) 1975 c. 45.
(d) 1975 c. 15. (e) S.I. 1975/1503 (N.I. 15). (f) 1975 c. 14.
(g) 1944 c. 15. (h) 1948 c. 64. (i) 1950 c. 10 (14 & 15 Geo. 6).

Provisions supplemental to Article 19

20.—(1) Notwithstanding anything in paragraphs (c), (d) and (f) of Article 19, but subject to paragraph (3), the sum to which priority is to be given under those paragraphs respectively shall not, in the case of any one claimant, exceed £800.

(2) The Department may by order made subject to affirmative resolution increase or reduce the sum specified in paragraph (1); but no increase or reduction in that sum shall affect any case where the relevant date occurred before the coming into force of the increase or reduction.

(3) Where a claimant under paragraph (d) of Article 19 is a labourer in husbandry who has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year or other shorter term of hiring, he shall have priority under that Article in respect of the whole of that sum or such part thereof as the court may decide to be due under the contract, proportionate to the time of service up to the relevant date.

(4) The debts to which priority is to be given under Article 19—

(a) shall rank equally among themselves; and

(b) shall be paid in full unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions; and

(c) shall be discharged forthwith (so far as the property of the bankrupt is sufficient to meet them, and subject to the retention of such sums as may be necessary for the costs of administration or otherwise).

(5) For the purposes of Article 19 and this Article—

(a) the value added tax which became due within the 12 months mentioned in Article 19 (a) (vi) in respect of any prescribed accounting period (within the meaning of section 3 (1) of the Finance Act 1972 (a)) falling partly within and partly outside those 12 months shall be taken to be such part of the tax due for the whole of that accounting period as is proportionate to the part of that period falling within those 12 months;

(b) any amount owed by an employer to an employee in respect of—

(i) remuneration under a protective award made under Article 51 of the Industrial Relations (Northern Ireland) Order 1976 (b);

(ii) a guarantee payment under Article 3 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 (c);

(iii) remuneration on suspension on medical grounds under Article 9 of that Order;

(iv) any payment for time off under Article 37 (4) or 41 (3) of that Order; shall be treated as if it were wages payable by the employer to the employee in respect of the period for which it is payable;

(c) any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the bankrupt during that period;

(d) "accrued holiday remuneration" includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any statutory provision (including any order made or direction given under any statutory provision), are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday had his employment with the bankrupt continued until he became entitled to be allowed the holiday;

(a) 1972 c. 41.

(b) S.I. 1976/1043 (N.I. 16).

(c) S.I. 1976/2147 (N.I. 28).

- (e) references to remuneration in respect of a period of holiday include any sums which, if they had been paid, would have been treated for the purposes of the Social Security (Northern Ireland) Act 1975 or the Social Security Act 1975 as earnings paid in that period;
- (f) "the relevant date" means the date of the order of adjudication of bankruptcy.

Forgoing of preference in certain circumstances

21. Any creditor who, in a composition after bankruptcy, votes in respect of any debt to which priority is to be given under Article 19 for or against the acceptance or confirmation of the bankrupt's offer of composition shall by so voting be taken to have abandoned any rights under that Article and shall be remitted to such rights, if any, in respect of any debts to which that Article would otherwise have applied as he would have had apart from that Article, unless the court on application is satisfied that his so voting has arisen from inadvertence.

Dividends

22.—(1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the Official Assignee shall with all convenient speed declare and distribute dividends among the creditors entitled to receive dividends in accordance with Article 13.

(2) Any such creditor may, at any time after the expiration of six months from the date of the order of adjudication of bankruptcy, apply to the court for an order requiring the Official Assignee to proceed with the distribution of the assets of the estate.

(3) In the calculation and distribution of a dividend the Official Assignee shall make provision—

(a) for provable debts which appear from the bankrupt's statement of affairs or otherwise to be due to persons—

(i) who by reason of delays in the ordinary course of communication may not have had sufficient time to tender their proofs or to establish them if disputed, or

(ii) whose address is not known to the Official Assignee, or

(iii) whom the Official Assignee has reason to believe not to have notice of the bankruptcy;

(b) for provable debts the subject of claims not yet determined;

(c) for any disputed proofs or claims.

(4) Before declaring a dividend the Official Assignee shall—

(a) cause notice of his intention to do so to be published in the Gazette; and

(b) send at least 14 days notice of his intention to do so to each creditor mentioned in the bankrupt's statement of affairs who has not proved his debt.

(5) When the Official Assignee has declared a dividend, he shall send to each creditor whose debt has been proved and to the creditor's assignee, if any,—

(a) a notice showing the amount of the dividend and when and how it is payable, and

(b) a statement giving particulars of the estate and of the progress of the administration of the bankruptcy.

(6) Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any cash balance for

the time being standing to the credit of the account of the bankrupt's estate any dividend or dividends he may have failed to receive, before any part of that balance is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before the debt was proved by reason that he has not participated therein.

(7) When the Official Assignee has realised all the property of the bankrupt, or so much thereof as can, in his opinion, be realised without needlessly protracting the administration, he shall declare a final dividend, but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the court within a time limited by the notice, he will proceed to make a final dividend, without regard to their claims.

(8) After the expiration of the time so limited, or, if the court on application by any such claimant grants him further time for establishing his claim, then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors entitled to receive dividends in accordance with Article 13, without regard to the claims of any other persons.

(9) Paragraphs (1) to (8) shall, so far as applicable and subject to the terms of the bankrupt's offer of composition, apply to the payment of a composition.

Recovery of preferential payments or dividends from Official Assignee

23. No action shall be brought against the Official Assignee—

(a) for the amount of any debt to which priority is to be given under Article 19; or

(b) for any dividend;

but if the Official Assignee refuses to pay any such amount or dividend the court may order its payment with interest for the period when it was withheld.

Unclaimed or undistributed dividends or funds

24.—(1) The Official Assignee shall keep an account of—

(a) all sums payable in respect of dividends declared by him in proceedings under the Bankruptcy Acts where those sums have remained unclaimed for six months; and

(b) all sums arising from an estate which is being administered by him under those Acts where after declaration of a final dividend those sums remain unclaimed or undistributed.

(2) Any person claiming to be entitled to any sum such as is mentioned in paragraph (1), or to any sum paid into the Insolvency Account under Article 5 (1) (b), may apply to the Department for payment of the sum due to him, and the Department, on a certificate by the Official Assignee that the person claiming is entitled or on other evidence of entitlement, may make an order for the payment to that person out of the Insolvency Account of the sum due.

(3) On or before 31 March in each year the Department shall pay into the Consolidated Fund any sum such as is mentioned in paragraph (1), and any part of the sum mentioned in Article 5 (1) (b), which has remained unclaimed for a period of at least two years from the date of lodgment; but where the Department is satisfied that any person claiming is entitled to any sum so paid into the Consolidated Fund it may order payment of the same and the Department of Finance shall issue out of the Consolidated Fund such sum as may appear to that Department to be necessary to provide for that payment.

(4) Any person dissatisfied with a decision of the Department in respect of a claim made under paragraph (2) or (3) may appeal to the court against that decision.

Payment of interest out of surplus

25. If there is any surplus after payment in full of all debts admitted in the bankruptcy and of the costs of administration, it shall be applied in payment of interest on those debts from the date of the order of adjudication of bankruptcy at the prescribed rate.

Right of bankrupt to ultimate surplus

26.—(1) Subject to section 76 of the Act of 1872 (no return of surplus assets to bankrupt where corrupt agreement with creditor), the bankrupt shall be entitled to any surplus property remaining after payment in full of his creditors, with interest, and of the costs of administration.

(2) The court may, on the application of the bankrupt, order that any surplus such as is mentioned in paragraph (1) which is in the possession of or vested in or otherwise subject to the control of the assignees shall vest in such person as the court may appoint or, in default of any such appointment, revert to the bankrupt for all the bankrupt's estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order.

(3) An order under paragraph (2) shall be deemed for all purposes to be a conveyance or assignment of property and may be registered accordingly.

(4) The first two references to the bankrupt in paragraph (2) include his assignees or, where he has died, his personal representatives.

Release of Official Assignee

Release of Official Assignee

27.—(1) When the Official Assignee has—

- (a) realised all the property of a bankrupt or so much thereof as can, in his opinion, be realised without needlessly protracting the administration of the bankrupt's estate and distributed a final dividend, if any; or
- (b) completed his duties in relation to the administration of an offer of composition after bankruptcy so far as practicable without needlessly protracting the administration;

the Department shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Department, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the Official Assignee, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the court.

(2) Where the release of the Official Assignee is withheld, the court may, on the application of any creditor or person interested, make such order as it thinks just, charging the Official Assignee with the consequences of any act or default he may have done or made contrary to his duty.

(3) An order of the Department releasing the Official Assignee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Notwithstanding the Official Assignee's release under this Article he shall continue to act for any subsequent purposes of the administration of the

bankrupt's estate, but no liability shall attach to the person holding the office of Official Assignee personally by reason of his so continuing in respect of any act done, default made, or liability incurred before his release.

Discharge

Discharge of bankrupt on his own application

28.—(1) A bankrupt may, at any time after being adjudged bankrupt, apply to the court for an order of discharge, and the court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded or an order is made under Article 11 (12) or 12 dispensing with such examination.

(2) Notice of the appointment by the court of the day for hearing the application shall be published in the prescribed manner, and sent 14 days at least before the day so appointed to each creditor who has proved.

(3) On the hearing of the application, the court—

(a) shall take into consideration a report of the Official Assignee as to the bankrupt's conduct and affairs (including a report as to the bankrupt's conduct during the proceedings under his bankruptcy); and

(b) may hear the Official Assignee and any creditor; and

(c) may put such questions to the bankrupt and receive such evidence as it thinks fit.

(4) Subject to paragraph (5), the court may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property.

(5) Where the bankrupt has been convicted of any offence under the Debtors Act (Ireland) 1872 (a) (concealing assets, etc.) or the Bankruptcy Acts or any other offence connected with his bankruptcy, or where in any case any of the facts mentioned in paragraph (8) are proved, the court shall either—

(a) refuse the discharge; or

(b) suspend the discharge for such period as the court thinks proper or until a dividend of not less than 50p in the pound has been paid to the creditors; or

(c) require the bankrupt as a condition of his discharge to consent to judgment being entered against him by the Official Assignee for any balance or part of any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt in such manner and subject to such conditions as the court may direct.

(6) Any judgment entered by virtue of paragraph (5) (c) shall not be enforced without the leave of the court; and leave may be given on proof that the bankrupt has since his discharge acquired property or income available towards payment of his debts.

(7) If at any time after the expiration of two years from the date of any order made under this Article the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of the order, the court may modify the terms of the order, or of any substituted order, in such manner and on such conditions as it thinks fit.

(a) 1872 c. 57.

(8) The facts referred to in paragraph (5) are—

- (a) that the bankrupt's assets are not of a value equal to 50p in the pound on the amount of his unsecured liabilities (unless he satisfies the court that that fact has arisen from circumstances for which he cannot justly be held responsible);
- (b) that the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy;
- (c) that the bankrupt has continued to trade after knowing himself to be insolvent;
- (d) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it;
- (e) that the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (f) that the bankrupt has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
- (g) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;
- (h) that the bankrupt has brought on or contributed to his bankruptcy by incurring unjustifiable expense in bringing any frivolous or vexatious action;
- (i) that the bankrupt has, within six months preceding the date of the adjudication order, when unable to pay his debts as they become due, given an undue preference to any of his creditors;
- (j) that the bankrupt has, within three months preceding the date of the adjudication order, incurred liabilities with a view of making his assets equal to 50p in the pound on the amount of his unsecured liabilities;
- (k) that the bankrupt has, on any previous occasion, been adjudged bankrupt, or made a composition or arrangement with his creditors;
- (l) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(9) For the purposes of this Article, a bankrupt's assets shall be deemed of a value equal to 50p in the pound on the amount of his unsecured liabilities when the court is satisfied on considering a report of the Official Assignee that the property of the bankrupt has realised, or is likely to realise, or with due care in realisation might have realised, an amount equal to 50p in the pound on his unsecured liabilities.

(10) For the purposes of this Article, a report of the Official Assignee shall be evidence of the statements therein contained.

(11) The powers of suspending and of attaching conditions to a bankrupt's discharge may be exercised concurrently.

Automatic discharge of bankrupt

29.—(1) Where the court makes an order—

- (a) declaring that a bankrupt's examination has been concluded; or
- (b) dispensing with his examination,

the court may, if it thinks fit, make an order directing that paragraph (2) shall have effect; and in determining whether to make such an order the court shall have regard to all the circumstances of the case, including, in particular, any

such facts as are stated in Article 28 (8) and whether the bankrupt has been convicted of any offence under the Debtors Act (Ireland) 1872 or the Bankruptcy Acts or any other offence connected with his bankruptcy.

(2) Where the court makes an order under paragraph (1) then, if the bankrupt—

(a) is not discharged under Article 28 in respect of the adjudication before the fifth anniversary of the date of the adjudication; and

(b) the adjudication is not annulled before that anniversary,

the same results shall ensue as if the court had on that anniversary granted him an absolute order of discharge under that Article in respect of the adjudication.

(3) Article 36 (power to review, rescind or vary orders) shall not apply to an order under paragraph (1), but the court may on the application of the Official Assignee rescind the order at any time before the fifth anniversary of the date of the adjudication.

(4) Where a person has been adjudged bankrupt more than five years before the coming into force of this Article and—

(a) a certificate of conformity has not been granted to him under section 57 of the Act of 1872 in respect of the adjudication or he has not been discharged under Article 28 in respect of the adjudication before the relevant date (that is to say, the date of the coming into operation of this Article or the tenth anniversary of the date of the adjudication, whichever is the later); and

(b) the adjudication has not been annulled before the relevant date,

the same results shall ensue as if the court had on the relevant date granted him an absolute order of discharge under Article 28.

(5) In paragraphs (2) (a) and (4) (a) references to discharge are references to discharge by an absolute order of discharge or by the expiration of the period, or satisfaction of any requirement, specified by a suspended or conditional order.

(6) For the purpose of paragraph (4) (a) a certificate of conformity granted subject to suspension shall be deemed to have been granted at the expiration of the period of suspension.

Discharge of bankrupt on application of Official Assignee

30.—(1) This Article applies to any adjudication of bankruptcy made after, or within five years before, the coming into operation of this Article where—

(a) the bankrupt has not applied under section 56 of the Act of 1872 for a certificate of conformity or under Article 28 for an order of discharge in respect of the adjudication; and

(b) the adjudication has not been annulled; and

(c) the court has not made an order under Article 29 (1) in relation to the adjudication or any such order has been rescinded; and

(d) five years have elapsed since the date of the adjudication.

(2) Within 12 months after the fifth anniversary of the date of any adjudication to which this Article applies, the Official Assignee shall make an application to the court in respect of the adjudication.

(3) The court shall appoint a day for the hearing of the application and notice of the appointment shall be published in the prescribed manner and sent 14 days at least before the day so appointed to the bankrupt.

(4) On the hearing of the application the court shall take into consideration a report of the Official Assignee as to the bankrupt's conduct and affairs, including a report as to the bankrupt's conduct during the proceedings under his bankruptcy; and for the purposes of this Article that report shall be evidence of the statements therein contained.

(5) Except where the court otherwise directs, the application may be heard in the absence of the bankrupt; and the court may hear the Official Assignee and any creditor, receive such other evidence as it thinks fit and, if the bankrupt is present, put questions to him.

(6) On any application under this Article the court may—

(a) grant or refuse an absolute order of discharge; or

(b) suspend the discharge for such period as the court thinks proper or until a dividend of not less than 50p in the pound has been paid to the creditors; or

(c) require the bankrupt as a condition of his discharge to consent to judgment being entered against him by the Official Assignee for any balance or part of any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt in such manner and subject to such conditions as the court may direct.

(7) Any judgment entered by virtue of paragraph (6) (c) shall not be enforced without the leave of the court; and leave may be given on proof that the bankrupt has since his discharge acquired property or income available towards payment of his debts.

(8) If at any time after the expiration of two years from the date of any order made under this Article the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of the order, the court may modify the terms of the order, or of any substituted order, in such manner and on such conditions as it thinks fit.

Effect of discharge

31.—(1) An order of discharge shall release the bankrupt from all provable debts except the following:—

(a) any debt on a recognisance or any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against a statutory provision relating to the public revenue, or any debt on a bail bond entered into for the appearance of any person prosecuted for any such offence, unless the Treasury or the Department of Finance (whichever is appropriate) certifies in writing its consent to his being discharged from such excepted debts;

(b) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which the bankrupt was a party, or any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(2) The discharge of a bankrupt shall not release from any liability a person who, at the date of the order of adjudication of bankruptcy—

(a) was a partner or a co-trustee with the bankrupt or was jointly bound or had made a joint contract with him, or

(b) was surety or in the nature of surety for the bankrupt.

(3) An order of discharge shall be conclusive evidence of the bankruptcy and of the validity of the proceedings therein; and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge.

Discharged bankrupt to assist Official Assignee

32. A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the Official Assignee may require in the realisation and distribution of such of his property as is vested in the assignees and, if he fails to do so, he shall be guilty of a contempt of court: and in addition to any punishment imposed for such contempt the court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

Miscellaneous

Bankruptcy rules

33.—(1) The Lord Chancellor may, with the concurrence of the Department and after consultation with the review committee, make rules (“bankruptcy rules”) for carrying into effect the objects of the Bankruptcy Acts.

(2) Without prejudice to the generality of paragraph (1), bankruptcy rules may, in relation to the exercise by the High Court of its jurisdiction under the Bankruptcy Acts, make such provision as has been made or might lawfully be made by rules of court in relation to the exercise by the High Court of any other jurisdiction.

(3) Bankruptcy rules shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (a) shall apply accordingly.

(4) In this Article “the review committee” means the committee appointed under subsection (3) of section 317 of the Companies Act (Northern Ireland) 1960 (b) to keep under review the winding-up rules in force under that section.

Regulations

34.—(1) The Department, with the concurrence of the Department of Finance, may by regulations fix—

(a) the fees to be taken in respect of proceedings under, or other matters connected with the administration of, the Bankruptcy Acts other than fees to which section 116 of the Judicature (Northern Ireland) Act 1978 (c) (court fees, etc.) or section 87 of the Act of 1857 (fees to shorthand writers for transcripts) applies; and

(b) the deposit to be made by a petitioner under those Acts for the purpose of covering the costs to be incurred by the Official Assignee.

(2) The Department may make regulations in respect of any matters under the Bankruptcy Acts or bankruptcy rules which are of an administrative and not a judicial character.

(a) 1946 c. 36.

(b) 1960 c. 22 (N.I.).

(c) 1978 c. 23.

(3) Regulations shall be subject to negative resolution.

Returns and reports

35.—(1) The Master (Bankruptcy) shall make to the Department a return of such of the business of the Bankruptcy and Companies Office at such times and in such manner and form as may be prescribed.

(2) The Department shall, from the returns received under paragraph (1) and Article 4 (1), prepare records which, in accordance with regulations, shall be open to public inspection.

(3) The Department shall cause an annual general report of matters for which it and its officers, including the Official Assignee, are responsible under the Bankruptcy Acts to be prepared and laid before the Assembly.

Power of court to review, rescind or vary orders

36.—(1) Subject to any express provision of the Bankruptcy Acts, the court has power to review, rescind or vary any order made by it under those Acts.

(2) The power conferred by paragraph (1) to vary an order includes power to suspend or revive it.

Increase of monetary limits relating to bankruptcy, etc.

37.—(1) In the statutory provisions mentioned in column 1 of the following Table (which are concerned with the matters respectively described in column 2 of that Table) for the sums specified in column 3 of that Table there shall be substituted the sums specified in column 4:

TABLE

<i>Provision</i>	<i>Subject matter</i>	<i>Existing limit</i>	<i>Substituted limit</i>
<i>Debtors Act (Ireland) 1872</i>			
Section 11 (1) paragraphs (4) and (5).	Offence of concealing or removing property confined to cases where value of property exceeds a minimum amount.	£10	£120
Section 12	Offence of taking, or preparing to take, property out of Northern Ireland confined to cases where value of property exceeds a minimum amount.	£20	£250
<i>Bankruptcy (Ireland) Amendment Act 1872</i>			
Section 20	Minimum debt to support bankruptcy petition.	£40	£200
Section 21 paragraph (6) and section 30	Minimum debt which may be specified in a debtor's summons, default in compliance with which is an act of bankruptcy.	£20	£200

TABLE—Continued

<i>Provision</i>	<i>Subject matter</i>	<i>Existing limit</i>	<i>Substituted limit</i>
<i>Bankruptcy Amendment Act (Northern Ireland) 1929</i>			
Section 26 (1) proviso (a)	Maximum unsecured liabilities for exemption of bankrupt from criminal liability where he has failed to keep books of account— in the case of a person who has not previously been adjudged bankrupt or made a composition or arrangement with his creditors	£500	£6,000
	in any other case	£100	£1,200

(2) The Department may by order made subject to affirmative resolution increase or reduce—

- (a) any of the sums specified in the provisions mentioned in column 1 of the Table in paragraph (1); or
- (b) the sum specified in section 124 of the Act of 1857 (maximum value of goods debtor may remove without leave); or
- (c) the sum specified in Article 42 (1) (a);

but no increase in the sum specified in section 20, or in sections 21 and 30, of the Act of 1872 shall affect any case in which the bankruptcy petition was presented, or the debtor's summons on which the petition is founded was issued, before the coming into force of the increase.

Abolition of office of Bankruptcy Messenger

38. The office of Bankruptcy Messenger is hereby abolished.

Administration by trustee and committee of inspection

39.—(1) In circumstances where under sections 87 to 122 of the Act of 1872 a bankrupt's estate is administered by a trustee and a committee of inspection—

- (a) the under-mentioned provisions of this Order, that is to say,—
Articles 14 to 16, 22, 23, 24 (2), 26, 27 (1) to (3), 28 (5) (c) and (9), 30 (6) (c) and 32; and
- (b) section 124 of the Act of 1857 (removal of certain goods or chattels, without leave of Official Assignee);

shall have effect with the substitution for any reference to the Official Assignee (whether a direct reference or included in any reference to the assignees) of a reference to the trustee.

(2) In those circumstances—

- (a) if, before the court has declared under paragraph (11) of Article 11 that the bankrupt's examination is concluded, an application has been made to the court under section 87 of the Act of 1872 for an order to summon a general meeting of the creditors for the purpose of appointing or authorising the appointment of a trustee, the court shall not declare the examination to be concluded until after the day appointed for the first meeting of the creditors, and if the trustee is appointed before the conclusion of the examination he may take part in the examination;

- (b) in Article 22 paragraph (1) shall have effect with the substitution for "with all convenient speed" of "when the committee of inspection determines", and in paragraph (6) the reference to any cash balance standing to the credit of the account of the bankrupt's estate shall include any money forming part of that estate which is in the hands of the trustee;
- (c) in Article 24—
- (i) for paragraph (1) there shall be substituted—
- “(1) The trustee shall keep an account of—
- (a) all sums payable in respect of dividends to which section 104 (5) of the Act of 1872 (dividends unclaimed for six months) applies; and
- (b) all sums payable in respect of dividends, and all other sums, to which section 115 of that Act (dividends unclaimed at time of release of trustee and other sums then remaining under his control or accruing thereafter) applies.”,
- (ii) in paragraph (2) for the words from “, or to any sum” to “Article 5 (1) (b),” there shall be substituted “which has been paid into the Insolvency Account”;
- (iii) in paragraph (3) the words from “, and any part” to “Article 5 (1) (b),” shall be omitted;
- (d) in Article 27 for paragraph (4) there shall be substituted—
- “(4) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office.
- (5) Following the trustee's release the Official Assignee shall be the trustee for any subsequent purposes of the administration of the bankrupt's estate; but no liability shall attach to the person holding the office of Official Assignee personally, by reason of his so being the trustee, in respect of any act done, default made or liability incurred by any prior trustee.”;
- (e) in Articles 28 (3) (b) and (10), 29 (3) and 30 (5) any reference such as is mentioned in paragraph (1) to the Official Assignee includes a reference to the trustee.

Arranging debtors

40. The under-mentioned provisions of this Order, that is to say,—

Articles 13 to 16, 17 (1), 18 to 21, 22 (except paragraphs (3) (a) (iii) and (4) (a)), 23, 24, 27 and 34 (2) and (so far as applicable) paragraph 3 of Schedule 1,

shall have effect in relation to an arranging debtor as if any reference to the bankrupt or bankruptcy (except a reference expressly modified by paragraphs (a) to (e)) were a reference, respectively, to the arranging debtor or to the arrangement or the administration of the arrangement (as the context requires), and subject to the following further modifications—

- (a) in Articles 14 (1), 15 (1), 20 (5) (f) and 22 (2) (in each case) for “the order of adjudication of bankruptcy” substitute “the order for protection”, and in Article 14 in paragraphs (1) and (9) (b) for any reference to a bankrupt's discharge substitute a reference to obtaining a certificate under section 64 of the Act of 1872, in paragraph (2) for “when the bankrupt committed an act of bankruptcy” substitute “when the debtor presented his petition under section 343 of the Act of 1857” and omit paragraph (4);
- (b) in Article 21 for “in a composition after bankruptcy” substitute “in connection with the petition of an arranging debtor”, and in that Article and Article 22 (9) (in each case) for “the bankrupt's offer of composition”

- substitute "the arranging debtor's proposal or any modification of that proposal";
- (c) in Article 22 (7) for "all the property of the bankrupt" substitute "all the property of the arranging debtor which has vested in him for realisation under section 349 of the Act of 1857";
 - (d) in Article 27 (1) for sub-paragraphs (a) and (b) substitute "completed his duties in relation to the administration of the arrangement so far as practicable without needlessly protracting the administration";
 - (e) in paragraph 3 of Schedule 1 for "the adjudication of bankruptcy" substitute "the granting of the order for protection".

Deceased insolvents

41.—(1) In the application of Articles 14 (excluding paragraph (4)), 17 (1) and 18 to 20 by Part I of Schedule 1 to the Administration of Estates Act (Northern Ireland) 1955 (a) to the estate of a deceased insolvent, for any reference to the bankrupt or the order of adjudication of bankruptcy there shall be substituted a reference to, respectively, the deceased or his death, for any reference to the time of an act of bankruptcy there shall be substituted a reference to the date of the deceased's death, for any reference to a discharge from bankruptcy there shall be substituted a reference to the completion of the administration of the deceased's estate, for any reference to bankruptcy (other than in connection with an adjudication of bankruptcy, an act of bankruptcy or a discharge from bankruptcy) there shall be substituted a reference to the administration of the deceased's estate and for any reference to the bankrupt's becoming subject to a debt or liability after his adjudication there shall be substituted a reference to the deceased's estate becoming subject to it.

(2) Articles 24, 25, 27 (except paragraph (1) (b)) and 34 shall have effect in relation to the estate of a deceased insolvent with the substitution for any reference to a bankrupt or bankruptcy of a reference to a deceased insolvent or the administration of his estate and with the substitution in Article 25 for the reference to the order of adjudication of bankruptcy of a reference to the order for administration.

Offences

Undischarged bankrupt obtaining credit

42.—(1) Where an undischarged bankrupt—

- (a) either alone or jointly with any other person obtains credit to the extent of £50 or upwards from any person without informing that person that he is an undischarged bankrupt; or
- (b) engages in any trade or business under a name other than that under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt;

he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

(2) In paragraph (1) "undischarged bankrupt" means—

- (a) a bankrupt who has not been discharged from his bankruptcy by an absolute order of discharge under Article 28 or 30, or by virtue of the expiration of the period or the satisfaction of any requirement specified by a suspended or conditional order of discharge under that Article or by virtue of Article 29 (2) or (4) (automatic discharge); or
- (b) a person who is an undischarged bankrupt under the law of England and Wales or of Scotland.

General

Application to the Crown

43. The following provisions of the Bankruptcy Acts (and no others) bind the Crown, that is to say,—

- (a) sections 149 and 150 of the Act of 1857, section 102 of the Act of 1872 and section 5 (1) of the Bankruptcy Amendment Act (Northern Ireland) 1929 (a) (“the Act of 1929”) (composition, general scheme of settlement or arrangement proposal);
- (b) section 262 of the Act of 1857 (creditor not relinquishing suit, not to prove in bankruptcy) and section 68 of the Act of 1872 (power of court to restrain suits);
- (c) sections 271 and 272 of the Act of 1857, section 97 of the Act of 1872 (but subject to section 98 of that Act and section 2 of the Bankruptcy (Amendment) Act (Northern Ireland) 1963 (b)) and section 19 of the Act of 1929 (election and disclaimer);
- (d) sections 63 and 89, proviso (4), of the Act of 1872, section 7 of and Schedule 1 to the Act of 1929 and Articles 13 to 17 of this Order (proof of debts);
- (e) Articles 18 to 21 and 23 of, and paragraph 13 of Schedule 1 to, this Order and any provision referred to in that paragraph (priorities of debts);
- (f) section 64 of the Act of 1872 (discharge of arranging debtor) and Article 31 of this Order (effect of discharge), but subject to paragraph (1) (a) of that Article.

Transitional and saving provisions, amendments and repeals

44.—(1) The transitional and saving provisions set out in Schedule 1 shall have effect, and an order under Article 1 (3) may make such further transitional provisions as appear to the Head of the Department to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of any provision of the Bankruptcy Acts as appear to him to be necessary or expedient in consequence of the partial operation of this Order.

(2) Subject to Schedule 1—

- (a) the statutory provisions specified in Schedule 2 shall have effect subject to the amendments there specified (which include in paragraphs 81 to 89 of that Schedule amendments of the Judgments (Enforcement) Act (Northern Ireland) 1969 (c) for the removal of inconsistencies);
- (b) the statutory provisions specified in columns 1 and 2 of Schedule 3 (which include obsolete or unnecessary provisions) shall be repealed to the extent specified in column 3.

N.E. Leigh

Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Articles 18, 19, 40,
43 (e), 44 (1).

TRANSITIONAL AND SAVING PROVISIONS

Transitional provisions

1. The person who, immediately before the commencement of Article 3, was acting as official assignee by virtue of his appointment under section 59 of the Act of 1857 shall be deemed to have been appointed as Official Assignee under Article 3 (1).

2. Any reference in any statutory provision, in relation to bankruptcy, arranging debtors or the estates of deceased insolvents, to the official assignee or official assignees shall be construed as a reference to the Official Assignee appointed under Article 3 (1).

3. Articles 10 to 12, 13 (1) (a), 14, 15 (3), 17, 25, 26 and 29 (1) to (3) apply only where the adjudication of bankruptcy takes place after the commencement of those respective provisions.

(a) 1929 c. 1 (N.I.) (20 Geo. 5). (b) 1963 c. 23 (N.I.). (c) 1969 c. 30 (N.I.).

4. Where before the commencement of Article 16 a creditor has proved his debt at a sitting held solely for proof of debts, paragraphs (1) to (3) of that Article shall not apply in respect of that debt.

5. Where the relevant date (as defined by Article 20 (5) (f))—

- (a) occurred before 9th August 1977, subject to sub-paragraph (b), Article 20 (1) shall have effect with the substitution of “£200” for “£800”;
- (b) occurred before 9th July 1963, the statutory provisions relating to preferential payments which would have applied if this Order had not been made and the Bankruptcy (Amendment) Act (Northern Ireland) 1963 (a) and the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 (b) had not been passed shall continue to have effect.

6. The reference in Article 23 (a) to Article 19, and the references in Articles 40 and 41 to Articles 19 and 20, include any earlier statutory provision which continues to have effect by virtue of paragraph 5.

7. Any reference in any statutory provision to a certificate of conformity shall include a reference to an order under Article 28 or 30 by virtue of which a bankrupt has obtained his discharge (as defined by Article 29 (5)) and (on and after the anniversary mentioned in Article 29 (2)) an order under Article 29 (1).

8. Where an application under section 56 of the Act of 1872 for a certificate of conformity is pending at the commencement of Article 28 it shall be dealt with, and such a certificate may be granted, as if this Order had not been made.

9. Any reference in the Bankruptcy Acts to a general order of the court or rules of court shall be construed as a reference to bankruptcy rules; and any such general order or rules of court made for the purposes of those Acts and in force immediately before the commencement of this paragraph shall be deemed to be bankruptcy rules and may be amended or revoked accordingly.

10. No increase, by virtue of Article 37 (1), in the sum specified in section 20, or in sections 21 and 30, of the Act of 1872 shall affect any case in which the bankruptcy petition was presented, or the debtor's summons on which the petition was founded was issued, before the coming into force of the increase.

11. In Article 42 in paragraph (1) the reference to a person's being an undischarged bankrupt includes a reference to his being an uncertificated bankrupt, and in paragraph (2) the reference to a bankrupt's not having been discharged from his bankruptcy by an absolute order of discharge or otherwise as mentioned in that Article includes a reference to his not having obtained the certificate of conformity mentioned in section 56 of the Act of 1872.

Savings

12. So far as bankruptcy rules do not extend, and subject to the provisions of this Order, the principles, practice and rules on which courts having jurisdiction in bankruptcy in Northern Ireland have heretofore acted in dealing with proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1977 shall continue to be observed by the court.

13. Nothing in Articles 18 to 20 shall—

- (a) affect section 250 of the Act of 1857 (return of all or part of apprentice fee);
- (b) alter the effect of section 3 of the Partnership Act 1890 (c) (postponement of debts arising from sale of goodwill or involving profit-sharing) or section 9 of the Bankruptcy Amendment Act (Northern Ireland) 1929 (d) (business loans between spouses);
- (c) affect section 50 of the Friendly Societies Act (Northern Ireland) 1970 (e) (prior payment of society's money etc. in possession of bankrupt officer) or section 72 of the Trustee Savings Bank Act 1969 (f) (money etc. in possession of officer of bank); or
- (d) affect any other statutory provision, not expressly repealed by this Order or by any other statutory provision, which relates to preferential payments in bankruptcy.

(a) 1963 c. 23 (N.I.). (b) 1964 c. 32 (N.I.). (c) 1890 c. 39.
(d) 1929 c. 1 (N.I.) (20 Geo. 5). (e) 1970 c. 31 (N.I.). (f) 1969 c. 50.

14. The repeal by this Order of the statutory provisions mentioned in column 1 of the following Table applies only where, as the case may be, the order of adjudication of bankruptcy or the order for protection was made, or the death of an insolvent occurred, before the commencement of the provisions of this Order respectively mentioned in column 2:

TABLE

<i>Repealed provision</i>	<i>Provision of this Order</i>
The Act of 1857—	
section 130 and any provision referring to a bankrupt's last or final examination	Article 11
section 138	Article 10
sections 246 and 247	Article 15
sections 248, 252 to 259 and 261	Article 14
section 251	Article 17
section 304	Articles 25 and 26
The Act of 1872—	
sections 45 to 47 and 105	Article 14

15. The repeal of section 286 of the Act of 1857 shall not affect any audit already begun, and any such audit may be continued and completed as if that section were still in force.

Article 44 (2) (a).

SCHEDULE 2

AMENDMENTS

Irish Bankrupt and Insolvent Act 1857 (c. 60)

1. In section 4—

(a) in the definition of "Assignees" after "official" insert "assignee";

(b) after that definition insert—

"'Bankruptcy rules' means rules made under Article 33 of the Bankruptcy Amendment (Northern Ireland) Order 1980;

'Official assignee' means the Official Assignee for bankruptcy for Northern Ireland appointed under Article 3 of the Bankruptcy Amendment (Northern Ireland) Order 1980;

'Statutory provision' has the meaning given by section 1 (f) of the Interpretation Act (Northern Ireland) 1954;";

(c) in the definition of "Registrar" for "chief registrar" substitute "Master (Bankruptcy)";

(d) in the definition of "Gazette" for "Dublin" substitute "Belfast".

2. In section 30 for "appointment" substitute "rejection".

3. In section 31 for "traders" substitute "debtors".

4. In section 34 for "certificate of conformity" substitute "discharge" and for "trader" substitute "debtor".

5. In section 60 for the words from the beginning to "shall be assignees" substitute "The official assignee shall be assignee" and for "official assignees alone" substitute "official assignee alone".

6. In section 63 for "assignees", in the second and third places where that word occurs, substitute "assignee", and for the words from "and, if the Court" onwards substitute "and bankruptcy rules may provide for the cases in which property of the bankrupt's may be sold or otherwise disposed of before the sitting for the choice of assignees by the creditors where such sale or disposal ought for some reason to be effected without delay".

7. In section 65 for "No official assignee shall" substitute "The official assignee shall not", and for the words from "required" onwards substitute "required or permitted by any statutory provision".

8. In section 66 for "an" where first occurring substitute "the", and for "a judge of the court" and "the judge" substitute (in each case) "the court".

9. In section 72 for "messenger of the Court and his assistants" substitute "person".

10. For sections 87 to 89 substitute—

"Record of proceedings.

87. Bankruptcy rules may provide—

- (a) for the making of a record (whether by means of shorthand notes, by mechanical means or otherwise) of any proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1980;
- (b) for the appointment of a person to make the record;
- (c) for the making and verification of a transcript of the record and for supplying the transcript to the registrar and the official assignee and to such other persons in such circumstances as may be prescribed by the rules;
- (d) for the fees to be paid for transcripts and the persons by whom or the source from which the fees are to be paid."

11. In section 115 after "petition of bankruptcy" insert "or by reason of an act of bankruptcy such as is mentioned in paragraph (5A) or (5B) of section 21 of the Bankruptcy (Ireland) Amendment Act 1872 (certificate of unenforceability; order staying enforcement in multiple debt cases) where, as the case may be, the certificate of unenforceability has been set aside under sections 10 (1) (g) (iii) and 17 of the Judgments (Enforcement) Act (Northern Ireland) 1969 or the order staying enforcement has ceased to have effect by virtue of section 10 (3), or on the expiration of an extended period fixed by an order under section 10 (4), of that Act".

12. In section 120 for "such trader" substitute "debtor" and for the words from "Belfast" onwards substitute "Gazette in the manner prescribed by bankruptcy rules".

13. In section 123 for "official assignees" substitute "official assignee".

14. In section 124 after "or has removed" insert "any goods or chattels in his possession above the value of £120 without the leave of the official assignee", and for the words from "directed to a messenger" to "think fit" (where secondly occurring) substitute "authorising the arrest and commitment to prison of".

15. In section 127 for "trader" in the first two places where it occurs substitute "person" and in the third and fifth places substitute "debtor".

16. In section 132 for "surrender himself, and give" substitute "gives", and for "surrender" (where secondly occurring) substitute "consent is given".

17. In section 135 after "until" insert "the sitting for", for "the sitting for such choice" substitute "that sitting" and for the words from "any general order" onwards substitute "bankruptcy rules".

18. For section 142 substitute—

"Release of bankrupt committed for default. 142. If a bankrupt is in prison by virtue only of an order of committal made under section 88 of the Judgments (Enforcement) Act (Northern Ireland) 1969, in respect of a debt incurred prior to adjudication, the Court may order his release."

19. In section 146 for "the allowance of the bankrupt's certificate" substitute "the bankrupt's discharge from bankruptcy".

20. In section 260 for "a rate not exceeding five pounds per centum per annum" substitute "such rate as may be prescribed by bankruptcy rules".

21. In section 265 for the words from the beginning to "Act" substitute "Bankruptcy rules shall".

22. In section 266 for the words from "allowance of the bankrupt's certificate" to "purposes" substitute "discharge of the bankrupt or for either such purpose".

23. In section 267 for the words from "shall have obtained his certificate" to "behalf" substitute "is discharged from his bankruptcy by an absolute order of discharge under Article 28 or 30 of the Bankruptcy Amendment (Northern Ireland) Order 1980, or by virtue of the expiration of the period or the satisfaction of any requirement specified by a suspended or conditional order of discharge under that Article, or by virtue of Article 29 (2) or (4) (automatic discharge) of that Order".

24. In section 268 for the words from "shall have obtained his certificate" to "discharge" substitute "is discharged from his bankruptcy by an absolute order of

discharge under Article 28 or 30 of the Bankruptcy Amendment (Northern Ireland) Order 1980, or by virtue of the expiration of the period or the satisfaction of any requirement specified by a suspended or conditional order of discharge under that Article, or by virtue of Article 29 (2) or (4) (automatic discharge) of that Order”.

25. In section 276 for “assignee” substitute “assignees”.

26. In section 279 the words “with the leave of the Court” and “with like leave of the Court” shall cease to have effect.

27. In section 298, in paragraph (a), after “apparel” insert “and such articles of household furniture, that is to say,”.

28. For section 301 substitute—

“Allowance to bankrupt for maintenance or service. 301. The official assignee may make such allowances as he may think just to the bankrupt out of the bankrupt’s property for the support of the bankrupt and his family or in consideration of his services if he is engaged in winding up his estate, but any such allowance may be reduced by the Court.”

29. In section 307 for “wife” (twice) substitute “spouse”, for “her” where it first occurs substitute “that spouse”, after “her” where it subsequently occurs (three times) insert “or his”, and for “she” substitute “the spouse”.

30. In section 308 for the words from “the person or persons” to “bring him” substitute “him to be arrested and brought”.

31. In section 324 for “on a creditor’s petition” substitute “otherwise than on a debtor’s petition”, and for “by a trader or of any petition of insolvency” substitute “by a debtor”.

32. In section 326 for “the messenger and his assistants or other” substitute “any” and for “persons” substitute “person”.

33. In section 328 for “judge’s order” substitute “court order”.

34. In section 343 for “such trader” substitute “debtor” and for “or custody for debt” substitute “by virtue only of an order of committal made under section 88 of the Judgments (Enforcement) Act (Northern Ireland) 1969, in respect of a debt incurred prior to the presentation of his petition”.

35. In section 344 for the words from “assignees” where it first occurs to that word where it thirdly occurs substitute “assignee”, for “rules and regulations” substitute “statutory provisions”, and for “shall by any general or special order direct” substitute “may order or as may be prescribed by bankruptcy rules”.

36. For section 345 substitute—

“Petitioning debtor’s statement of affairs.

345.—(1) The petitioning debtor shall within the prescribed period before the date appointed for the private sitting file in the Court a statement of and in relation to his affairs, and paragraphs (1), (5), (6) and (so far as applicable) (7) of Article 10 of the Bankruptcy Amendment (Northern Ireland) Order 1980 shall apply to that statement with the substitution for any reference to the bankrupt of a reference to the petitioning debtor and for the references in the said paragraph (1) to the official assignee of references to the court.

(2) The statement shall set forth the debtor’s proposal for the future payment or the compromise of his debts or engagements.

(3) The debtor shall furnish the official assignee with a copy of the statement.

(4) In paragraph (1) ‘prescribed’ means prescribed by bankruptcy rules.”.

37. In section 348 for “trader” substitute “debtor”.

38. In section 349 for “trader” substitute “debtor” and for “official assignees” (twice) substitute “official assignee”.

39. In section 351 for “trader” substitute “debtor”.

40. In section 353 for “trader” (twice) substitute “debtor”, for “account” substitute “statement of affairs”, after “within” where first occurring insert “the prescribed period or” and after “on the application of” insert “the official assignee or”.

41. In section 357 after "bankrupt" in the fifth place where it occurs insert "or debtor" and for the words from "and shall be entitled" onwards substitute "on payment of the appropriate fee".

42. In section 359 for "action at the suit of" substitute "legal proceedings instituted by" and for "the judge before whom the cause shall be tried may (if he think fit)" substitute "the court seized of the proceedings may".

43. In section 370, in the eleventh paragraph, for "the Lord Chancellor" substitute "the Lord High Chancellor of Great Britain".

44. In section 371 for the words from "as the Court" to "direct" substitute "as may be prescribed by bankruptcy rules".

45. In section 389 for the words from "any messenger" to "such messenger" substitute "in the execution of his duty any officer of the Court or person acting under warrant of the Court", and for the words from "deemed" to "liable" substitute "guilty of an offence and shall be liable on summary conviction".

46. In section 399 for "any of Her Majesty's Superior Courts of Record" substitute "any court of competent jurisdiction".

Debtors Act (Ireland) 1872 (c. 57)

47. In section 11 (1), in the introductory words, after "thereof" insert "on indictment" and after "years" insert "or on summary conviction thereof shall be liable to be imprisoned for any time not exceeding one year".

Bankruptcy (Ireland) Amendment Act 1872 (c. 58)

48. In section 4 after the definition of "The Court" insert—

"'The Department' means the Department of Commerce for Northern Ireland; 'Insolvency Account' means the account of that name kept by the Department under Article 93 of the Companies (Northern Ireland) Order 1978;"; and in the definition of "Prescribed" for the words from "rules of court" onwards substitute "bankruptcy rules".

49. In section 50 for the words from "and to proceedings" onwards substitute "shall be vested in the Court".

50. In section 62 for "Bankruptcy Acts 1857 to 1964" substitute "Bankruptcy Acts (Northern Ireland) 1857 to 1980".

51. In section 63 for "give up" substitute "surrender" and at the end insert "If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence."

52. In section 64 for the words from "a certificate of conformity" onwards substitute "an absolute order of discharge from bankruptcy".

53. In section 66 for "before a jury" and "by a jury" substitute (in each case) "with a jury".

54. In section 69 after "constable or" insert "any".

55. In section 76 for "allowance of the certificate of the bankrupt" substitute "bankrupt's discharge from bankruptcy", after "the debts of the creditors" insert ", with interest as provided by Article 25 of the Bankruptcy Amendment (Northern Ireland) Order 1980," and for "the 'unclaimed dividend account'" substitute "the Insolvency Account".

56. In section 80 for "pretences" substitute "preferences".

57. In section 89 proviso (4) for "give up" substitute "surrender" and at the end insert "If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence."

58. In section 91 for "official assignees" substitute "official assignee".

59. In section 94 for the words from "once" to "audit his accounts" substitute "at such intervals as may be prescribed, when they shall consider the accounts sent

to them under section 117 (7)", and for "one of the registrars of the Court" substitute "the registrar".

60. In section 96 for "rules of Court" (twice) substitute "bankruptcy rules".

61. For section 104 substitute—

"Payments by trustee into Insolvency Account or authorised account.

104.—(1) The trustee shall, in such manner and at such times as may be prescribed by regulations made under Article 34 of the Bankruptcy Amendment (Northern Ireland) Order 1980, pay the money received by him as trustee to the Department, which shall lodge that money into the Insolvency Account.

(2) If the committee of inspection satisfy the Department that for any reason it is for the advantage of the creditors that the trustee should pay the money received by him as trustee or part of that money into a bank account other than the Insolvency Account, the Department shall, on the application of the committee of inspection, authorise the trustee to make payments into and out of such other account as the committee may select, and thereupon those payments shall be made in such manner and at such times as the Department may direct.

(3) If the trustee at any time retains for more than 10 days a sum exceeding £100 or such other amount as the Department in any particular case authorises him to retain, then, unless he explains the retention to the satisfaction of the Department,—

- (a) he shall pay interest on the amount so retained in excess at the rate of 20% per annum, and
- (b) he shall be liable to disallowance of all his remuneration or such part of it as the Department may think just, and
- (c) he shall be liable to be removed from his office by the Court on the application of the Department, and
- (d) he shall be liable to pay any expenses occasioned by reason of his default.

(4) The trustee shall not pay any sums received by him as trustee into his private banking account.

(5) Where any dividends declared by the trustee have remained unclaimed for six months—

- (a) where payments into an account other than the Insolvency Account have not been authorised under paragraph (2), the trustee shall notify and vouch the dividends to the Department, which shall cause the sums payable in respect of the dividends to be credited to the Insolvency Account;
- (b) where payments into some other account have been so authorised, and the dividends have been debited to that account, the trustee shall cause the sums payable in respect of the dividends to be credited to that account."

62. In section 107 for "his not" substitute "the trustee's not".

63. In section 114—

(a) for the first sentence substitute "When the trustee proposes to apply to the Department under Articles 27 and 39 of the Bankruptcy Amendment (Northern Ireland) Order 1980 for his release, he shall call a meeting of the creditors to consider his intended application.";

(b) in the second sentence for "the Court" substitute "the Department";

(c) the words from "The creditors assembled" onwards shall cease to have effect.

64. For section 115 substitute—

"Duty of trustee as to unclaimed dividends and outstanding property.

115.—(1) When the trustee is released—

(a) he shall deal with any unclaimed dividends as mentioned in section 104 (5), notwithstanding that they have not remained unclaimed for six months;

(b) he shall pay to the Department—

- (i) any sums remaining in his hands which form part of the bankrupt's estate, and

- (ii) any sum remaining to the credit of an account in his name which has been authorised under section 104 (2) (including any sum credited to that account under paragraph (a)),
for lodgment into the Insolvency Account; and
- (c) he shall deliver to the official assignee a list of any outstanding property of the bankrupt's.
- (2) The property mentioned in paragraph (1) (c) shall, when practicable, be got in and applied for the benefit of the creditors.
- (3) Where any sum accrues to the trustee after his release in right of the bankrupt's estate, the trustee shall pay it to the Department for lodgment into the Insolvency Account."

65. For sections 117 to 119 substitute—

"Audit of trustee's accounts.

117.—(1) The trustee shall, at such times as may be prescribed, send to the Department or as it directs an account in the prescribed form and made in duplicate of his receipts and payments as trustee.

(2) The trustee shall verify by a statutory declaration in the prescribed form the account mentioned in subsection (1).

(3) The trustee shall furnish the Department with such vouchers and information as the Department may require, and the Department may at any time, whether at the premises of the trustee or elsewhere, require the production of and inspect any books or accounts kept by the trustee.

(4) The Department may cause any account sent to it under this section to be audited.

(5) When the audit of an account has been completed, one copy of the account shall be filed and kept by the Department and the second copy shall be delivered to the Court for filing.

(6) Where the Department determines not to cause an account to be audited, subsection (5) shall apply as if it required copies of the accounts to be filed or delivered for filing forthwith.

(7) Subject to subsection (8), the trustee shall, either when the account has been audited or when he has been notified by the Department of its determination not to cause the account to be audited, send a copy of the account to every member of the committee of inspection.

(8) The Department may in any case dispense with compliance with subsection (7).

Control of Department of Commerce over trustee.

118. The Department shall take cognizance of the conduct of the trustee and, if he does not faithfully perform his duties and duly observe all the requirements imposed on him by any statutory provision or otherwise with respect to the performance of his duties or if any complaint is made to the Department by any creditor in regard thereto, the Department shall inquire into the matter and take such action thereon as the Department may think expedient."

66. In section 120 for "The said officer" substitute "The Department", for "him" and "he" (where secondly occurring) substitute "the Department" and for "he think" substitute "the Department thinks".

67. In section 121 after paragraph (4) insert—

"(4A) During any vacancy in the office of trustee the official assignee shall act as trustee:";

and in paragraph (15) for "Court" substitute "Department".

Deeds of Arrangement Amendment Act 1890 (c. 24)

68. In section 2—

(a) in subsection (1) for the words from "now required" to "general orders of the court of bankruptcy" substitute "required by bankruptcy rules (within the meaning of that Act)";

(b) in subsection (6) after "seventh" insert "and ninth", for "section" (in the first two places where occurring) substitute "sections", after "application"

insert "of the seventh section" and at the end insert "and in such application of the ninth section a reference to the omission to file the copies mentioned in subsection (1) or (3) of this section within the time required by subsection (2) or (4) respectively shall be substituted for the reference to the omission to register a deed of arrangement within the time required by that Act".

Small Dwellings Acquisition Act 1899 (c. 44)

69. In sections 3 (5) and 7 (3), in each case, immediately before "the trustee in bankruptcy" insert "the Official Assignee or".

Bankruptcy Amendment Act (Northern Ireland) 1929 (c. 1)

70. In section 3 the second amendment of section 120 of the Act of 1857 specified in paragraph 12.

71. In section 5 (1) for the words from "and make oath" to "ten pounds shall" substitute "and may be examined as to his conduct, dealings and property by the official assignee or any creditor who has proved a debt to the amount of £10 or more; and if at that sitting or any adjournment of it three-fifths in number and value of creditors who have proved such debts", for "his petition" substitute "the order for protection" and for "attorneys" substitute "solicitors".

72. In section 21 (1) for "Rules of Court may provide" substitute "Bankruptcy rules may provide".

73. In section 21 (4) for "the Acts of 1857, 1872, and 1889, and this Act" substitute "the Bankruptcy Acts (Northern Ireland) 1857 to 1980" and in the proviso after "1872" insert "and the Bankruptcy Amendment (Northern Ireland) Order 1980".

74. In section 21 (5)—

(a) for "the Acts of 1857, 1872, and 1889, and this Act" substitute "the Bankruptcy Acts (Northern Ireland) 1857 to 1980";

(b) after "distribution of property" insert "(except Article 26 of the Bankruptcy Amendment (Northern Ireland) Order 1980)".

75. For section 21 (7) substitute—

(7) If on the administration of the estate of a deceased debtor any surplus remains in the hands of the official assignee or trustee, after payment in full of all the creditors of the deceased, with interest, and of the costs of the proceedings under the petition for administration, the personal representative of the deceased shall be entitled to that surplus.

(7A) The court may, on the application of the personal representative of a deceased debtor, order that any surplus property of the deceased remaining in the possession of, or vested in, or otherwise subject to the control of the official assignee or trustee, shall vest in such person as the court may appoint or, in default of any such appointment, revert to the personal representative of the deceased for all the estate or interest therein of the deceased on such terms and subject to such conditions, if any, as the court may declare by order.

(7B) An order made in pursuance of subsection (7A) shall for all purposes be deemed to be a conveyance or assignment of property and may be registered accordingly."

76. In section 28 (1)—

(a) in the definition of "Prescribed" for the words from "rules of court" onwards substitute "bankruptcy rules";

(b) in the definition of "Official assignee" for the words from "appointed" onwards substitute "for bankruptcy for Northern Ireland appointed under Article 3 of the Bankruptcy Amendment (Northern Ireland) Order 1980".

77. In Schedule 1, paragraph 2, for "official assignee" substitute "assignees".

Companies Act (Northern Ireland) 1960 (c. 22)

78. In section 287 (7) (f) for "30 (1)" substitute "3 (1)"

79. In section 399 (1) in paragraph (a) of the definition of "undischarged bankrupt" after "1872" insert "or who has not been discharged from his bankruptcy by an absolute order of discharge under Article 28 or 30 of the Bankruptcy Amendment

(Northern Ireland) Order 1980, or by virtue of the expiration of the period or the satisfaction of any requirement specified in a suspended or conditional order of discharge under that Article, or by virtue of Article 29 (2) or (4) (automatic discharge) of that Order”.

Magistrates' Courts Act (Northern Ireland) 1964 (c. 21)

80. In section 6 (3) for the words from “together with” to “which further” substitute “either at the time of or subsequent to his discharge from bankruptcy a certificate that in the opinion of the Court his bankruptcy was caused by misfortune without any misconduct on his part, which”.

Judgments (Enforcement) Act (Northern Ireland) 1969 (c. 30)

81. In section 1 (2) (d) after “time,” insert “and judgments against a company”.

82. In section 14 (4) for “against the separate property of the individual partners” substitute “otherwise than against property of the firm”.

83. In section 29—

(a) in subsection (1) after “the debtor” insert “or other person” and for “his means” substitute “the matters mentioned in section 22 (2) (A) or, as the case requires, section 25 (1) or (2)”;

(b) in subsection (2) for “his means” substitute “the matters referred to in subsection (1)”.

84. In section 43 (1) (a) after “be” insert “, or has been,”.

85. In section 51 after “rates” insert “(including regional rate and district rate)”.

86. In section 77D (1) (b) after “jurisdictions” insert “or of an order which is enforceable as if it were such an order” and for “such an order” substitute “any such order”.

87. In section 77H (1) after “unsecured debts” insert “and whose debts have been proved in accordance with rules”.

88. In section 94 the words “(1) and ” shall cease to have effect.

89. In section 100 (3)—

(a) in paragraph (a) for the words from “by the debtor” to “issued” substitute “by the person in respect of whom the warrant was issued for his non-attendance pursuant to a summons under section 22 (1) or section 25 (1) or (2) or an order under section 22 (2) (A) or section 25 (3) (as the case may be) following which the warrant was issued”;

(b) in the concluding words for “the debtor” substitute “the person in respect of whom the warrant was issued”.

90. In section 129 (1) in the definitions of “assignees in bankruptcy”, “bankrupt” and “Official Assignee” in each case for “1964” substitute “1980”.

91. In Schedule 4 Part II the amendment of section 298 of the Act of 1857 specified in paragraph 27.

Land Registration Act (Northern Ireland) 1970 (c. 18)

92. In section 59—

(a) in subsections (1) and (4) for “Bankruptcy Registrar” substitute, in each case, “Master (Bankruptcy)”;

(b) in subsection (3) after “subsection (4)” insert “,(4A)”;

(c) after subsection (4) insert—

“(4A) The Registrar shall cancel any entry in the appropriate register made under subsection (1) on receipt of a direction in writing to do so given by the Master (Bankruptcy).”.

Local Government Act (Northern Ireland) 1972 (c. 9)

93. In section 5 (1)—

(a) in paragraph (b) for the words from “together with” onwards substitute “at the time of or subsequent to his discharge from bankruptcy a certificate that in the opinion of the Court his bankruptcy was caused by misfortune without any misconduct on his part, on the date of his discharge”;

- (b) in paragraph (c) after "certificate of conformity" insert "or from the date on which he is discharged from his bankruptcy by an absolute order of discharge under Article 28 or 30 of the Bankruptcy Amendment (Northern Ireland) Order 1980, or by virtue of the expiration of the period or the satisfaction of any requirement specified by a suspended or conditional order of discharge under that Article, or by virtue of Article 29 (2) or (4) (automatic discharge) of that Order";
- (c) in the concluding words for "such further certificate" substitute "such a certificate"; and
- (d) at the end insert "subject to a right of the bankrupt to appeal against the withholding thereof".

Social Security (Northern Ireland) Act 1975 (c. 15)

94. In Schedule 15—

- (a) in paragraph 1 (1) for "the provisions of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964" substitute "Articles 19 and 20 of the Bankruptcy Amendment (Northern Ireland) Order 1980 (including those Articles as applied by Articles 40 and 41 of that Order)";
- (b) in paragraph 1 (2), for "the filing of the petition of arrangement" substitute "the order for protection".

Solicitors (Northern Ireland) Order 1976 (S.I. 1976/582 (N.I. 12))

95. In Article 41 (5) for "Official Assignee in Bankruptcy" substitute "Official Assignee for bankruptcy", and for the words from "court fees" onwards substitute "fees as may be fixed by the Department of Commerce subject to appeal to the Chancery judge".

Industrial Relations (Northern Ireland) Order 1976 (S.I. 1976/1043 (N.I. 16))

96. For Article 42 (4) substitute—

- "(4) For the purposes of paragraph (3) (a) any amount owed by an employer to an employee in respect of—

 - (a) remuneration under a protective award made under Article 51;
 - (b) a guarantee payment under Article 3 of the No. 2 Order;
 - (c) remuneration on suspension on medical grounds under Article 9 of that Order;
 - (d) any payment for time off under Article 37 (4) or 41 (3) of that Order;

- shall be treated as if it were arrears of pay."

97. In Article 43 (4) for "maternity pay and any such payment as is referred to in Article 43 (2) of the No. 2 Order" substitute "maternity pay and any such amount as is referred to in Article 42 (4) (a) to (d)".

98. In Article 45 (2) for sub-paragraph (a) substitute—

- "(a) Articles 19 and 20 of the Bankruptcy Amendment (Northern Ireland) Order 1980;"

Companies (Northern Ireland) Order 1978 (S.I. 1978/1042 (N.I. 12))

99. In Article 85 the amendment of section 287 (7) (f) of the Companies Act (Northern Ireland) 1960 specified in paragraph 78.

100. In Article 94 (2) after "prescribed" insert "by regulations made by the Department subject to negative resolution"

REPEALS

Chapter or Number	Title or Short Title	Extent of repeal
9 Geo. 4 c. 80.	Bankers' Composition (Ireland) Act 1828.	In section 9 the words "or insolvent".
7 Wm. 4 & 1 Vict. c. 73.	Chartered Companies Act 1837.	In section 25 the word "insolvency," (four times).
10 & 11 Vict. c. 16.	Commissioners Clauses Act 1847.	In section 8 the words "or insolvent".
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857.	<p>In section 4 the definitions of "Lord Chancellor", "Joint stock company", "Bank of Ireland", "Petition of insolvency" "Prisoner", "Gaoler" and "Insolvent", in the definition of "Person" the words "and joint stock company", in the definition of "Assignees" the words "or insolvent", in the definition of "Bankrupt" the words "on any petition of bankruptcy", in the definition of "Creditor" the words "and joint stock" and in the definition of "Petitioning creditor" the words "or a petition of insolvency against an insolvent".</p> <p>In section 24 the words "and insolvency", "and insolvent" and "or insolvent", the words "or insolvency" (twice), and the words "and also in any application for a certificate of conformity".</p> <p>In section 34 the word "final".</p> <p>Section 54.</p> <p>Section 59.</p> <p>In section 60 the words "and insolvent's" and "and insolvent" and the words from "save" onwards.</p> <p>Sections 61 and 62.</p> <p>In section 63 the words "and insolvent's".</p> <p>Sections 67 and 69 to 71.</p> <p>In section 72 the words "or insolvent" in the first two places where they occur, and the words from "and insolvent" onwards.</p> <p>Section 76.</p> <p>Sections 118 and 119.</p> <p>In section 122 the words from "nor shall" onwards.</p>

Chapter or Number	Title or Short Title	Extent of repeal
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857—(contd.).	<p>In section 126 the words “the trading of or”, “trading or” and “trading and”.</p> <p>In section 127 the words “trading and” (twice) and “, upon the application of such trader, and upon proof of the trading,”.</p> <p>In section 129 the word “Dublin” (twice), the words “any or” and the word “trading” (twice).</p> <p>Section 130.</p> <p>In section 131 the words “surrender himself, and” and the words from “and appoint” onwards.</p> <p>In section 132 the words from “to be made” to “justice of the peace”, the words “not in prison or custody”, the words “after such surrender” (where secondly occurring) the words “after he shall have surrendered” and the words from “and every such bankrupt” onwards.</p> <p>Sections 138 and 139.</p> <p>In section 140 the word “last”.</p> <p>Sections 147 and 148.</p> <p>In section 149 the words “Dublin” and “Belfast”.</p> <p>Sections 245 to 248.</p> <p>In section 250 the words “or insolvent” wherever occurring and the words “or insolvency”.</p> <p>Sections 251 to 259.</p> <p>In section 260 the words “or insolvency”.</p> <p>Section 261.</p> <p>In section 262 the words “or insolvent” and “or insolvency” wherever (in each case) those words occur.</p> <p>Section 263.</p> <p>In section 265 the words “or insolvent’s”.</p> <p>In section 266 the words “or insolvent” (twice).</p> <p>In section 267 the words from “and upon the filing” to “Act.)”, the words “or insolvent” wherever occurring, and the words “according to the custom of the City of Dublin or otherwise”.</p> <p>In section 268 the words from “and upon the filing” to “Act.)” and the words “or insolvent” wherever occurring.</p> <p>Section 270.</p>

Chapter or Number	Title or Short Title	Extent of repeal
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857—(contd.).	<p>In section 271 the words "or insolvent" wherever occurring and the words "or insolvency".</p> <p>In section 272 the words "or insolvent" (twice).</p> <p>In section 273 the words "or insolvent" and the words from "(except" to "benefice)".</p> <p>In section 274 the words "or insolvent's" and the words "or insolvent" wherever occurring.</p> <p>In section 275 the words "or insolvent" (twice).</p> <p>In section 276 the words "or insolvent" and "or insolvent's".</p> <p>In section 277 the words "pay all monies, and".</p> <p>In section 278 the words "or insolvent" and "or the filing the petition of insolvency".</p> <p>In section 279 the words "with the leave of the Court" and "with like leave of the Court", the words "or insolvent" (twice) and the words "or insolvent's".</p> <p>In section 281 the words "or insolvent" and "or insolvency".</p> <p>Section 282.</p> <p>Sections 286 to 290.</p> <p>In section 291 the words "or insolvent".</p> <p>Sections 292, 293, 295 and 296.</p> <p>In section 299 the words "or insolvent's", "or insolvent" (three times) and "messenger or".</p> <p>Section 300.</p> <p>Sections 302 to 304.</p> <p>In section 306 the words "or insolvent" (four times) and in section 307 those words (twice).</p> <p>In section 308 the words "or the filing of a petition in insolvency" and the words "or insolvent" (three times).</p> <p>In sections 310 and 311 the words "or insolvent" wherever occurring.</p> <p>In section 313 the words from "or if" to "imprisonment" and the words "or insolvency".</p> <p>Section 315.</p> <p>In section 317 the words "and insolvents".</p> <p>In sections 318 and 319 the words "or insolvent" wherever occurring.</p>

Chapter or Number	Title or Short Title	Extent of repeal
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857—(<i>contd.</i>).	<p>In section 323 the words “or insolvency” and “or insolvent”.</p> <p>In section 324 the word “Dublin”, the words “or insolvent” in the first and third places where they occur and the words from “or to the Bank of Ireland” to “being”.</p> <p>In section 326 the words “messenger and his assistants or other” in the second and third places where they occur and the words “or insolvent” (twice).</p> <p>In section 327 the words “messenger or his assistants or other”, “messenger or his assistant or other” and “messenger or assistant or”.</p> <p>In section 340 the words “forty-eight” and the words from “and to proceedings” to “insolvency” in the second place where it occurs.</p> <p>In section 343 the words “, except in the cases next herein-after mentioned,” and the words from “and may take bail” onwards.</p> <p>Section 350.</p> <p>In section 353 the word “last”.</p> <p>In section 355 the words “or insolvency”.</p> <p>In section 357 the word “insolvent” (eight times), the word “or” immediately preceding “insolvent” in the second and fifth places in which it occurs and the word “commission” (four times).</p> <p>In section 358 the word “Dublin”.</p> <p>In section 359 the words “trading or” and “respectively,”.</p> <p>Sections 360 to 363.</p> <p>In section 364 the word “Dublin”.</p> <p>In section 365 the words “, trading” and “heretofore or hereafter,”.</p> <p>Sections 368, 385, 386, 388, 390, 391 and 396.</p> <p>In section 399 the words “or insolvent”.</p>
28 & 29 Vict. c. 21.	Irish Bankrupt and Insolvent Amendment Act 1865.	The whole Act.
35 & 36 Vict. c. 57.	Debtors Act (Ireland) 1872.	<p>In section 11 (2) the words “, or, to imprisonment for a term not exceeding two years”.</p> <p>Section 22.</p>

Chapter or Number	Title or Short Title	Extent of repeal
35 & 36 Vict. c. 58.	Bankruptcy (Ireland) Amendment Act 1872.	<p>Sections 17, 18, 22, 23, 28 and 29. Sections 45 to 47.</p> <p>In section 53 the word "to" (where thirdly occurring). Sections 56 to 60.</p> <p>In section 66 the words from "and the Court" to "any other Court", the words "instead of by the Court itself" and the words from "and such trial" onwards.</p> <p>In section 69 the words "the messengers of the Court, or any assistant messenger, or" and the words from "and it shall not be necessary" to the end.</p> <p>In section 73 the words "keeper, or gaoler" (twice) and "or such chairman of quarter sessions".</p> <p>In section 76 the words "or trustees" (where secondly occurring).</p> <p>Section 77.</p> <p>In section 78 the words "addressed to any constable or prescribed officer of the Court".</p> <p>Sections 81 to 86 and 92.</p> <p>Section 99.</p> <p>In section 101 the word "To" at the beginning of paragraph (5). Section 105.</p> <p>In section 107 the words from the beginning to "accordingly; and". Sections 108 to 113.</p> <p>In section 114 the words from "The creditors assembled" onwards.</p> <p>Section 116.</p> <p>In section 122 the word "schedule" and the words from "and certificate" to "such bankrupt".</p> <p>Section 124.</p>
53 & 54 Vict. c. 24.	Deeds of Arrangement Amendment Act 1890.	In section 2 (7) the words "and of section one of this Act".
14 & 15 Geo. 5 c. 27.	Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.	Section 6 (4).
20 Geo. 5 c. 1.	Bankruptcy Amendment Act (Northern Ireland) 1929.	<p>Section 1 (c).</p> <p>In section 4 (1) the word "Belfast".</p> <p>In section 5 (1) the words "such proofs to be in all respects as proofs in bankruptcy," and the words from "and grant" onwards.</p>

Chapter or Number	Title or Short Title	Extent of repeal
20 Geo. 5 c. 1.	Bankruptcy Amendment Act (Northern Ireland) 1929 —(contd.)	In section 21 (4) the words "of the court". Section 22 (1). In section 23 (2) the words in section 11 (2) of the Debtors Act (Ireland) 1872 specified above. Section 24.
1964 c. 32.	Preferential Payments (Bank- ruptcies and Arrangements) Act (Northern Ireland) 1964.	The whole Act.
1965 c. 25.	Finance Act 1965.	In Schedule 10, paragraph 15.
1969 c. 30.	Judgments (Enforcement) Act (Northern Ireland) 1969.	In section 94 the words "(1) and". In section 96 (2) the words from the beginning to "1857".
1972 c. 11.	Miscellaneous Transferred Ex- cise Duties Act (Northern Ireland) 1972.	In Schedule 2, paragraph 14.
1972 c. 41.	Finance Act 1972.	Section 41 (1) (c) and (2) (c). In Schedule 7 paragraph 18 (1) (c) and (2) (c).
1975 c. 18.	Social Security (Consequential Provisions) Act 1975.	In Schedule 2 Part II, paragraph 82.
1975 c. 45.	Finance (No. 2) Act 1975.	In section 71 (6) the words from "and section 1 (1)" onwards.
S.I. 1975/1503 (N.I. 15).	Social Security Pensions (Nor- thern Ireland) Order 1975.	In Schedule 5, paragraph 6.
1976 c. 24.	Development Land Tax Act 1976.	Section 42 (2) and (4) (e).
S.I. 1976/582 (N.I. 12).	Solicitors (Northern Ireland) Order 1976.	Article 41 (1).
S.I. 1976/2147 (N.I. 28).	Industrial Relations (No. 2) (Northern Ireland) Order 1976.	Article 43. In Article 62 (1) the word "43". In Schedule 4 paragraph 5 (7) and (8).
S.I. 1977/1253 (N.I. 20).	Preferential Payments in Insol- vency (Northern Ireland) Order 1977.	The whole Order.
S.I. 1977/2157 (N.I. 28).	Rates (Northern Ireland) Order 1977.	In Schedule 15 Part I, paragraph 15.
1978 c. 23.	Judicature (Northern Ireland) Act 1978.	In Schedule 5— (a) the first and third entries relating to the Irish Bankrupt and Insolvent Act 1857 (gen-

Chapter or Number	Title or Short Title	Extent of repeal
1978 c. 23.	Judicature (Northern Ireland) Act 1978—(contd.).	<p>eral substitution of references to rules of court; amendment of section 59);</p> <p>(b) the second and third entries relating to the Bankruptcy (Ireland) Amendment Act 1872 (amendment of sections 57 and 124);</p> <p>(c) in the entry relating to section 21 (1) of the Bankruptcy Amendment Act (Northern Ireland) 1929 the words from "for the words from the beginning" to "and" (where first occurring), and, in the entry relating to section 28 (1) of that Act, paragraph (b).</p>

EXPLANATORY NOTE.

(This Note is not part of the Order.)

This Order amends the law of bankruptcy in Northern Ireland by, in particular,—

- (1) making new provision about the Official Assignee (who in future will be an officer of the Department of Commerce);
- (2) making fresh and simplified provision about proof of debts;
- (3) restating the law about the ranking of debts and preferential payments;
- (4) making fresh provision about dividends to creditors and the disposal of any surplus in a bankruptcy;
- (5) making fresh provision about discharge from bankruptcy.