Changes to legislation: *The Insolvency (Northern Ireland) Order 1989, Section 176 is up to date with all changes known to be in force on or before 28 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART V

WINDING UP OF COMPANIES REGISTERED UNDER [F1the Companies Act 2006]

CHAPTER X

MALPRACTICE BEFORE AND DURING LIQUIDATION; PENALISATION OF COMPANIES AND COMPANY OFFICERS; INVESTIGATIONS AND PROSECUTIONS

Penalisation of directors and officers

Summary remedy against delinquent directors, liquidators, etc.

176.—(1) This Article applies if in the course of the winding up of a company it appears that a person who—

(a) is or has been an officer of the company,

(b) has acted as liquidator [F1]. . . or administrative receiver of the company, or

(c) not being a person falling within sub#paragraph (a) or (b), is or has been concerned, or has taken part, in the promotion, formation or management of the company,

has misapplied or retained, or become accountable for, any money or other property of the company, or been guilty of any misfeasance or breach of any fiduciary or other duty in relation to the company.

(2) The reference in paragraph (1) to any misfeasance or breach of any fiduciary or other duty in relation to the company includes, in the case of a person who has acted as liquidator [F2]. . . of the company, any misfeasance or breach of any fiduciary or other duty in connection with the carrying out of his functions as liquidator [F2]. . . of the company.

(3) The High Court may, on the application of the official receiver or the liquidator, or of any creditor or contributory, examine into the conduct of the person falling within paragraph (1) and order him—

(a) to repay, restore or account for the money or property, or any part of it, with interest at such rate as the Court thinks just, or

(b) to contribute such sum to the company's assets by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the Court thinks just.

(4) The power to make an application under paragraph (3) in relation to a person who has acted as liquidator [F3]. . . of the company is not exercisable, except with the leave of the High Court, after [F4he] has had his release.

(5) The power of a contributory to make an application under paragraph (3) is not exercisable except with the leave of the High Court, but is exercisable notwithstanding that he will not benefit from any order the Court may make on the application.

[F5](6) . . . . . .

F1 Words in art. 176(1)(b) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 29(a), Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2** - 7)

F2 Words in art. 176(2) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 29(b), Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2** - 7)

F3 Words in art. 176(4) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 29(c)(i), Sch. 9 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2** - 7)

F4 Word in art. 176(4) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 29(c)(ii) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2** - 7)

F5 Art. 176(6) omitted (1.10.2009) by virtue of Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), arts. 2(1), 8, **Sch. 1 para. 111(25)** (with art. 10)

Modifications etc. (not altering text)

C1 Pts. 1-5 applied (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 1A para. 3** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), **Sch. 1**)

C2 Art. 176 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)

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Changes and effects yet to be applied to :

- Instrument amended by 1998 c. 11 s. 23 Sch. 5 Pt.1 Ch. 3 para. 40
- Instrument amended (prosp) by S.I. 1994/279 (N.I.) art. 26(1)Sch. 2 para. 15

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 9 Pt. 2 para. 66 revoked by 1996 c. 23 s. 107(2)Sch. 4 (Amendment could not be applied. The relevant affected text is not available on legislation.gov.uk)
- art. 2B inserted by 2016 c. 2 (N.I.) s. 2(1)
- art. 208ZA applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by S.I. 2023/1399 reg. 12 (This amendment not applied to Legislation.gov.uk. S. 208ZA is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 208ZA-208ZB inserted by 2016 c. 2 (N.I.) s. 1(1)
- art. 208ZB applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by S.I. 2023/1399 reg. 12 (This amendment not applied to Legislation.gov.uk. S. 208ZB is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 345A-345B inserted by 2016 c. 2 (N.I.) s. 1(2)