STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART I

INTRODUCTORY

[F1 Parts 7A to 10]

F1 Art. 9 cross-heading substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(3)**; S.R. 2011/13, **art. 2**

Interpretation

9 [F2]**.**—(1) In **[**[F3]Parts 7A to 10**]**—

"bankrupt" means an individual who has been adjudged bankrupt and, in relation to a bankruptcy order, it means the individual adjudged bankrupt by that order;

"bankruptcy debt", in relation to a bankrupt, means (subject to Article 2(3)) any of the following—

(a) any debt or liability to which he is subject at the commencement of the bankruptcy,

(b) any debt or liability to which he may become subject after the commencement of the bankruptcy (including after his discharge from bankruptcy) by reason of any obligation incurred before the commencement of the bankruptcy, and

(c) any interest provable as mentioned in Article 295(2);

and"debt" shall be construed accordingly;

"bankruptcy order" means an order adjudging an individual bankrupt;

"bankruptcy petition" means a petition to the High Court for a bankruptcy order;

"creditor"

(a) in relation to a bankrupt, means a person to whom any of the bankruptcy debts is owed, and

(b) in relation to an individual to whom a bankruptcy petition relates, means a person who would be a creditor in the bankruptcy if a bankruptcy order were made on that petition;

[F4]…

"creditor's petition" means a bankruptcy petition under Article 238(1)(a);

"the debtor"

(za) **[**[F5]in relation to a debt relief order or an application for such an order, has the same meaning as in Part 7A,**]**

(a) in relation to a proposal for the purposes of Part VIII, means the individual making or intending to make that proposal, and

(b) in relation to a bankruptcy petition, means the individual to whom the petition relates;

"debtor's petition" means a bankruptcy petition presented by the debtor himself under Article 238(1)(b);

[[F6]"debt relief order" means an order made by the official receiver under Part 7A;**]**

[F4]...

"dwelling house" includes any building or part of a building which is occupied as a dwelling and any yard, garden, garage or outhouse belonging to the dwelling house and occupied with it;

"family" in relation to a bankrupt, means the persons (if any) who are living with him and are dependent on him;

[[F7]"insolvency administration" means the administration in bankruptcy of the insolvent estate of a deceased person;

"insolvency administration order" means an order for the administration in bankruptcy of the insolvent estate of a deceased debtor (being an individual at the date of his death);

"insolvency administration petition" means a petition for an insolvency administration order;**]**

"interim order" means an order under Article 226;

[[F7]"the Judgments Enforcement Order" means the Judgments Enforcement (Northern Ireland) Order 1981;

"the Land Registration Act" means the Land Registration Act (Northern Ireland) 1970;**]**

[F4]...

[F4]...

[[F7]"the Registration of Deeds Act" means the Registration of Deeds Act (Northern Ireland) 1970; and

"the Rules" means the Insolvency Rules (Northern Ireland) 1999;**]**

"the trustee" in relation to a bankruptcy and the bankrupt, means the trustee of the bankrupt's estate;

"voluntary arrangement" means an arrangement as defined in Article 227(1).

(2) References in **[**[F8]Parts 7A to 10**]** to a person's affairs include his business, if any.

[F9](3) . . . . . .

[[F10](5) Liability under the Child Support (Northern Ireland) Order 1991 to pay child support maintenance to any person is not a debt or liability for the purposes of Part 8.**]**

F2 mod. by SR 2004/307

F3 Words in art. 9(1) substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(4)(a)(i)**; S.R. 2011/13, **art. 2**

F4 Words in art. 9(1) repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), **Sch. 4**; S.R. 2016/203, art. 2

F5 Art. 9(1): words in definition of "the debtor" inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(4)(a)(ii)**; S.R. 2011/13, **art. 2**

F6 Art. 9(1): definition of "debt relief order" inserted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(4)(a)(iii)**; S.R. 2011/13, **art. 2**

F7 SR 1991/365

F8 Words in art. 9(2) substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(4)(b)**; S.R. 2011/13, **art. 2**

F9 Art. 9(3) repealed (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 28(2), **Sch. 4**; S.R. 2016/203, art. 2

F10 Art. 9(5) inserted (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **131**; S.R. 2016/46, art. 3(5)(b)

"Security", etc.

10 [F11]**.**—(1) Subject to paragraphs (2) and (3) and any provision of the rules requiring a creditor to give up his security for the purposes of proving a debt, a debt is secured for the purposes of **[**[F12]Parts 7A to 10**]** to the extent that the person to whom the debt is owed holds any security for the debt (whether a mortgage, charge, lien or other security) over any property of the person by whom the debt is owed.

(2) Where a statement such as is mentioned in Article 243(1)(a) has been made by a secured creditor for the purposes of any bankruptcy petition and a bankruptcy order is subsequently made on that petition, the creditor is deemed for the purposes of Parts VIII to X to have given up the security specified in the statement.

(3) In paragraph (1) the reference to a security does not include a lien on books, papers or other records, except to the extent that they consist of documents which give a title to property and are held as such.

F11 mod. by SR 2004/307

F12 Words in art. 10(1) substituted (30.6.2011) by Debt Relief Act (Northern Ireland) 2010 (c. 16), ss. 6, 7(1), **Sch. para. 4(5)**; S.R. 2011/13, **art. 2**

"Bankrupt's estate"

11 [F13]**.**—(1) Subject to the following provisions of this Article, a bankrupt's estate for the purposes of any of Parts VIII to X comprises—

(a) all property belonging to or vested in the bankrupt at the commencement of the bankruptcy, and

(b) any property which by virtue of any of the provisions of Part IX of this Order or Article 88(3) or 90(3) of the Judgments Enforcement (Northern Ireland) Order 1981[F14] (effect of bankruptcy or winding up on enforcement of judgments and proceeds of such enforcement) is comprised in that estate or is treated as falling within sub#paragraph (a).

(2) Subject to Article 281 (certain excluded property reclaimable by trustee), paragraph (1) does not apply to—

(a) such tools, books, vehicles and other items of equipment as are necessary to the bankrupt for use personally by him in his employment, business or vocation;

(b) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his family.

(3) Paragraph (1) does not apply to property held by the bankrupt on trust for any other person.

(4) References in any of Parts VIII to X to property, in relation to a bankrupt, include references to any power exercisable by him over or in respect of property except in so far as the power is exercisable over or in respect of property not for the time being comprised in the bankrupt's estate and—

(a) is so exercisable at a time after either the official receiver has had his release in respect of that estate under Article 272(2) or a meeting summoned by the trustee of that estate under Article 304 has been held, or

(b) cannot be so exercised for the benefit of the bankrupt;

and a power exercisable over or in respect of property is deemed for the purposes of any of Parts VIII to X to vest in the person entitled to exercise it at the time of the transaction or event by virtue of which it is exercisable by that person (whether or not it becomes so exercisable at that time).

(5) For the purposes of any such provision in Parts VIII to X, property comprised in a bankrupt's estate is so comprised subject to the rights of any person other than the bankrupt (whether as a secured creditor of the bankrupt or otherwise) in relation thereto, but disregarding—

(a) any rights in relation to which a statement such as is required by Article 243(1)(a) was made in the petition on which the bankrupt was adjudged bankrupt, and

(b) any rights which have been otherwise given up in accordance with the rules.

[[F15](5A) This Article has effect subject to Article 256A.**]**

(6) This Article has effect subject to the provisions of any statutory provision not contained in this Order under which any property is to be excluded from a bankrupt's estate.

F13 mod. by SR 2004/307

F14 1981 NI 6

F15 Art. 11(5A) inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 17(10) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2** - 7)

Changes to legislation:
The Insolvency (Northern Ireland) Order 1989, Cross Heading: Parts 7A to 10 is up to date with all changes known to be in force on or before 19 June 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.
View outstanding changes

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)