
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**

Investigation and prosecution of malpractice

Prosecution of delinquent officers and members of company

182.—(1) ^{F1} If it appears to the High Court in the course of a winding up by the Court that any past or present officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the Court may (either on the application of a person interested in the winding up or of its own motion) direct the liquidator to refer the matter to [^{F2} the Department].

(2) ^{F1} If in the case of a winding up by the High Court it appears to the liquidator, not being the official receiver, that any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, the liquidator shall report the matter to the official receiver.

(3) ^{F1} If it appears to the liquidator in the course of a voluntary winding up that any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, he shall—

[^{F2}(a) forthwith report the matter to the Department, and

(b) furnish to the Department such information and give to it such access to and facilities for inspecting and taking copies of documents (being information or documents in the possession or under the control of the liquidator and relating to the matter in question) as the Department requires.]

[^{F2}(4) Where a report is made to the Department under paragraph (3), the Department may, for the purpose of investigating the matter reported to it and such other matters relating to the affairs of the company as appear to it to require investigation, exercise any of the powers which are exercisable by inspectors appointed under [^{F3}section 431 or 432 of the Companies Act 1985] to investigate a company's affairs.]

(5) ^{F1} If it appears to the High Court in the course of a voluntary winding up that—

(a) any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, and

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(b) no report with respect to the matter has been made by the liquidator ^{F4} . . . under paragraph (3),

the Court may (on the application of any person interested in the winding up or of its own motion) direct the liquidator to make such a report.

(6) On a report being made under paragraph (5), this Article has effect as though the report had been made in pursuance of paragraph (3).

- F1** mod. by SR 2004/307
F2 2002 NI 6
F3 Words in art. 182(4) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), arts. 2(1), 8, **Sch. 1 para. 111(30)** (with art. 10)
F4 2002 NI 6

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. 182 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**)
C3 Art. 182 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**)

Obligations arising under Article 182

183.—(1) For the purpose of an investigation by the Department [^{F5}in consequence of a report made to it under Article 182(3)], any obligation imposed on a person by any provision of [^{F6}the Companies Act 1985] to produce documents or give information to, or otherwise to assist, inspectors appointed as mentioned in [^{F5}Article 182(4)] is to be regarded as an obligation similarly to assist the Department in its investigation.

(2) An answer given by a person to a question put to him in exercise of the powers conferred by Article 182(4) may be used in evidence against him.

[^{F7}(2A) However, in criminal proceedings in which that person is charged with an offence to which this paragraph applies—

- (a) no evidence relating to the answer may be adduced, and
(b) no question relating to it may be asked,

by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.

(2B) Paragraph (2A) applies to any offence other than an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (NI 19) (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath).]

(3) Where criminal proceedings are instituted by [^{F5}the Director of Public Prosecutions for Northern Ireland] or the Department following any report or reference under Article 182, the liquidator and every officer and agent of the company past and present (other than the defendant) shall give to [^{F5}the Director of Public Prosecutions for Northern Ireland] or the Department (as the case may be) all assistance in connection with the prosecution which he is reasonably able to give.

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(4) In paragraph (3), “agent” includes any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(5) If a person fails or neglects to give assistance in the manner required by paragraph (3), the High Court may, on the application of the [^{F5}Director of Public Prosecutions for Northern Ireland] or the Department (as the case may be) direct the person to comply with that paragraph; and if the application is made with respect to a liquidator, the Court may (unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him to do so) direct that the costs shall be borne by the liquidator personally.

F5 2002 NI 6

F6 Words in art. 183(1) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), arts. 2(1), 8, **Sch. 1 para. 111(31)** (with art. 10)

F7 2002 NI 6

Modifications etc. (not altering text)

C4 Art. 183 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**)

Changes to legislation:

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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\(2\)](#)