

Status: Point in time view as at 01/04/2016.

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STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

^{F1}PART XI

PREFERENTIAL DEBTS IN COMPANY AND INDIVIDUAL INSOLVENCY

F1 Pts. XI-XIV modified by S.R. 2004/307 (as amended (1.10.2006) by Limited Liability Partnerships (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/377), reg. 3, Sch. 2)

Categories of preferential debts

346.—(1 ^{F2} A reference in this Order to the preferential debts of a company or an individual is to the debts listed in Schedule 4^{F3} (contributions to occupational pension schemes; remuneration, &c. of employees; levies on coal and steel production ^{F4}; debts owed to the Financial Services Compensation Scheme^{F5}; deposits covered by the Financial Services Compensation Scheme; other deposits)]; and references to preferential creditors are to be read accordingly.

^{F6}(1A) A reference in this Order to the “ordinary preferential debts” of a company or an individual is to the preferential debts listed in any of paragraphs 8 to 18 of Schedule 4 to this Order.

(1B) A reference in this Order to the “secondary preferential debts” of a company or an individual is to the preferential debts listed in paragraphs 19 or 20 of Schedule 4 to this Order.]

(2 ^{F2} In Schedule 4 “the debtor” means the company or the individual concerned.

(3) Schedule 4 is to be read with Schedule 4 to the Social Security Pensions (Northern Ireland) Order 1975^{F7} (occupational pension scheme contributions).

F2 mod. by SR 2004/307

F3 Words in art. 346(1) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 6(2) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

F4 Words in art. 346(1) inserted (26.3.2015) by The Deposit Guarantee Scheme Regulations 2015 (S.I. 2015/486), regs. 1(2), 15(2)

F5 Words in art. 346(1) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 20(2) (with art. 3)

F6 Art. 346(1A)(1B) inserted (1.1.2015) by The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (S.I. 2014/3486), arts. 1(2), 20(3) (with art. 3)

F7 1975 NI 15

“The relevant date”

347.—(1) This Article explains references in Schedule 4 to the relevant date (being the date which determines the existence and amount of a preferential debt).

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(2) For the purposes of Article 17 (meetings to consider company voluntary arrangement), the relevant date in relation to a company which is not being wound up is—

- [^{F8}(a) if the company is in administration, the date on which it entered administration, and
- (b) if the company is not in administration, the date on which the voluntary arrangement takes effect.]

[^{F9}(2A) For the purposes of paragraph 41 of Schedule A1 (meetings to consider company voluntary arrangement where a moratorium under Article 14A is in force), the relevant date in relation to a company is the date of filing.]

(3) In relation to a company which is being wound up, the following applies—

- (a) if the winding up is by the High Court, and the winding-up order was made immediately upon the discharge of an administration order, the relevant date is [^{F10}the date on which the company entered administration];
- [^{F11}(aa) if the winding up is by the Court and the winding-up order was made following conversion of administration into winding up by virtue of Article 37 of the EC Regulation, the relevant date is [^{F10}the date on which the company entered administration];
- (ab) [^{F12} if the company is deemed to have passed a resolution for voluntary winding up by virtue of an order following conversion of administration into winding up under Article 37 of the EC Regulation, the relevant date is [^{F10}the date on which the company entered administration];]
- (b) if the case does not fall within sub-paragraph (a) [^{F11}, (aa) or (ab)] and the company—
 - (i) is being wound up by the Court, and
 - (ii) had not commenced to be wound up voluntarily before the date of the making of the winding-up order,

the relevant date is the date of the appointment (or first appointment) of a provisional liquidator or, if no such appointment has been made, the date of the winding-up order;

- [^{F13}(ba) if the case does not fall within sub-paragraph (a), (aa), (ab) or (b) and the company is being wound up following administration pursuant to paragraph 84 of Schedule B1, the relevant date is the date on which the company entered administration;]
- (c) [^{F12} if the case does not fall within [^{F14} sub-paragraph (a), (aa), (ab), (b) or (ba)], the relevant date is the date of the passing of the resolution for the winding up of the company.

[^{F15}(3A) In relation to a company which is in administration (and to which no other provision of this Article applies) the relevant date is the date on which the company enters administration.]

(4) In relation to a company in receivership (where Article 50 applies), the relevant date is the date of the appointment of the receiver by debenture-holders.

(5) [^{F12} For the purposes of Article 232 (meeting to consider individual voluntary arrangements), the relevant date is, in relation to a debtor who is not an undischarged bankrupt

- [^{F16}(a) where an interim order has been made under Article 226 with respect to his proposal, the date of that order, and
- (b) in any other case, the date on which the voluntary arrangement takes effect.]

(6) [^{F12} In relation to a bankrupt, the following applies—

- (a) where at the time the bankruptcy order was made there was an interim receiver appointed under Article 259, the relevant date is the date on which the interim receiver was first appointed after the presentation of the bankruptcy petition;
- (b) otherwise, the relevant date is the date of the making of the bankruptcy order.

[^{F17}(7) Nothing in this Article affects the definition of “the relevant date” in Article 5(1A).]

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- F8** Art. 347(2)(a)(b) 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. 42(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)
- F9** 2002 NI 6
- F10** Words in art. 347(3)(a)(aa)(ab) 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. 42(3)(a) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)
- F11** SR 2002/334
- F12** mod. by SR 2004/307
- F13** Art. 347(3)(ba) inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 42(3)(b) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)
- F14** Words in art. 347(3)(c) 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. 42(3)(c) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)
- F15** Art. 347(3A) inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 42(4) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)
- F16** 2002 NI 6
- F17** Art. 347(7) inserted (1.4.2016) by Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), **ss. 9(5), 28(2)** (with Sch. 2 paras. 6-10); S.R. 2016/203, art. 2

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