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STATUTORY INSTRUMENTS

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**2005 No. 1455**

**The Insolvency (Northern Ireland) Order 2005**

*Companies etc.*

**Unsecured creditors**

7.—(1) The following shall be inserted after Article 150 of the 1989 Order (winding up: preferential debt)—

*“Property subject to floating charge*

**Share of assets for unsecured creditors**

**150A.**—(1) This Article applies where a floating charge relates to property of a company—

- (a) which has gone into liquidation,
- (b) which is in administration,
- (c) of which there is a provisional liquidator, or
- (d) of which there is a receiver.

(2) The liquidator, administrator or receiver—

- (a) shall make a prescribed part of the company’s net property available for the satisfaction of unsecured debts, and
- (b) shall not distribute that part to the proprietor of a floating charge except in so far as it exceeds the amount required for the satisfaction of unsecured debts.

(3) Paragraph (2) shall not apply to a company if—

- (a) the company’s net property is less than the prescribed minimum, and
- (b) the liquidator, administrator or receiver thinks that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits.

(4) Paragraph (2) shall also not apply to a company if or in so far as it is disapplied by—

- (a) a voluntary arrangement in respect of the company, or
- (b) a compromise or arrangement agreed under Article 418 of the Companies Order (compromise with creditors and members).

(5) Paragraph (2) shall also not apply to a company if—

- (a) the liquidator, administrator or receiver applies to the High Court for an order under this paragraph on the ground that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits, and
- (b) the Court orders that paragraph (2) shall not apply.

(6) In paragraphs (2) and (3) a company’s net property is the amount of its property which would, but for this Article, be available for satisfaction of claims of holders of debentures secured by, or holders of, any floating charge created by the company.

- (7) An order under paragraph (2) prescribing part of a company's net property may, in particular, provide for its calculation—
- (a) as a percentage of the company's net property, or
  - (b) as an aggregate of different percentages of different parts of the company's net property.
- (8) An order under this Article shall be subject to negative resolution.
- (9) In this Article—
- “floating charge” means a charge which is a floating charge on its creation and which is created after the first order under paragraph (2)(a) comes into operation, and
  - “prescribed” means prescribed by order by the Department.
- (10) An order under this Article may include transitional or incidental provision.”.
- (2) In Article 2(2) of the 1989 Order (general interpretation), in paragraph (b) in the definition of “prescribed” after “sub-paragraph (a)” there shall be inserted “in Article 150A(9)”.