

1980 No. 165 (C. 4)

BANKRUPTCY

The Bankruptcy (1980 Order) (Commencement No. 1) Order
(Northern Ireland) 1980

Made 21st May 1980

The Department of Commerce, in exercise of the powers conferred on it by Articles 1(3) and 44(1) of the Bankruptcy Amendment (Northern Ireland) Order 1980(a) ("the Order") and paragraph 2(1)(b) Schedule 1 to the Northern Ireland Act 1974(b) hereby makes the following Order:

Citation

1. This Order may be cited as the Bankruptcy (1980 Order) (Commencement No. 1) Order (Northern Ireland) 1980.

Appointed day

2. The provisions of the Order specified in the Schedule shall, to the extent so specified and subject to Article 3, come into operation on 12th June 1980.

Transitional provisions

3.—(1) Until the commencement of Article 33 of the Order the reference in Article 34(2) of the Order to bankruptcy rules includes a reference to rules of court made for the purposes of any of the Bankruptcy Acts.

(2) Except for the purposes of paragraph 11 of Schedule 1 to the Order, paragraph (2)(a) of Article 42 of the Order is inoperative until the commencement of Articles 28 to 30 of the Order.

(3) Until the commencement of the provisions of the Order mentioned in column 1 of the following Table any reference to those provisions in Article 43(d), (e) or (f) of the Order shall be construed as a reference to the statutory provisions respectively mentioned in column 2.

TABLE

<i>Reference in Article 43</i>	<i>Substituted reference</i>
Articles 13 to 17	Sections 246 to 248, 251 to 259, 261 and 263 of the Act of 1857(c) and sections 45 to 47 of the Act of 1872(d)
Article 23	Section 293 of the Act of 1857
Article 31	Sections 147 and 148 of the Act of 1857 and sections 58 and 59 of the Act of 1872

(a) S.I. 1980/561 (N.I. 4)

(b) 1974 c. 28

(c) 1857 c. 60

(d) 1872 c. 58

*Reference in Article 43**Substituted reference*

Paragraph (1)(a) of
Article 31

Paragraphs (1) and (2) of
section 58 of the Act
of 1872

(4) Until the commencement of paragraph 36 of Schedule 2 to the Order section 345 of the Act of 1857 shall have effect as if "debtor" were substituted for "trader" and "assignee" were substituted for "assignees".

(5) Until the commencement of the first bankruptcy rules made under Article 33 of the Order requiring an arranging debtor to file an affidavit of assets and liabilities and proceedings instituted by creditors, the reference in section 2(1) of the Deeds of Arrangement Amendment Act 1890(e) to such rules shall be construed as a reference to rules of court.

(6) Until the repeal of sub-section (4) of section 2 of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964(f) comes into operation the reference in that sub section to section 1 of that Act shall be construed as a reference to Articles 19 and 20 of the Order.

Sealed with the Official Seal of the Department of Commerce for Northern Ireland on 21st May 1980.

(L.S.)

W. T. McCrory
Assistant Secretary

(e) 1890 c. 24 as amended by the Order Schedule 2 paragraph 68(a)
(f) 1964 c. 32 (N.I.)

SCHEDULE

Provisions coming into operation on 12th June 1980

<i>Provision</i>	<i>Subject Matter</i>
Article 1	Title, construction, citation and commencement.
Article 2	Interpretation.
paragraph (1); paragraph (2) to the extent that it defines "the Act of 1857" "the Act of 1872" "arranging debtor" "the Bankruptcy Acts" "deceased insolvent" "the Department" "the Official Assignee" "regulations" "statutory provision"	
Article 3	The Official Assignee and Assistant Official Assignees.
Article 4 paragraph (1)	Official Assignee's accounts.
Article 8	Acts of bankruptcy.
Article 9	Extension of time for complying with debtor's summons.
Article 18	Ranking of debts.
Article 19	Preferential payments.
Article 20	Provisions supplemental to Article 19.
Article 21	Foregoing of preference in certain circumstances.
Article 27	Release of Official Assignee.
Article 34	Regulations.
Article 36	Power of court to review, rescind or vary orders.
Article 37	Increase of monetary limits relating to bankruptcy, etc.
Article 40 to the extent that it applies and modifies Articles 18 to 21, 27 and 34(2)	Arranging debtors.
Article 41 to the extent that it modifies Articles 18 to 20 and applies and modifies Articles 27 and 34	Deceased insolvents.

<i>Provision</i>	<i>Subject Matter</i>
Article 42	Undischarged bankrupt obtaining credit.
Article 43	Application to the Crown.
Article 44 ¹ except so far as it gives effect to provisions of Schedule 1 or 2, or repeals specified in Schedule 3, not brought into operation by this Order	Transitional and saving provisions, amendments and repeals.
Schedule 1— paragraphs 1, 2 and 5; paragraph 6 to the extent that it applies to Articles 40 and 41; paragraphs 10, 11 and 13	Transitional and saving provisions.
Schedule 2— paragraph 1 except the definition of “Bankruptcy rules”; paragraphs 2 and 3; paragraph 4 to the extent that it amends the word “trader”; paragraph 5; paragraph 6 to the extent that it amends the word “assignees” in the second and third places where it occurs; paragraphs 7, 8 and 11; paragraph 12 to the extent that it amends the words “such trader”; paragraphs 13 to 16, 18, 25 to 31, 33, 34 and 37 to 39; paragraph 40 to the extent that it amends the word “trader” (twice) and inserts the words “the official assignee or”; paragraphs 41 to 43, 46 and 47; paragraphs 49 to 51, 53, 56 to 58, 68, 69, 76(b), 77, 78, 81 to 92 and 94 to 99	Amendments.
Schedule 3 to the extent specified below	Repeals.

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extent of repeal</i>
9 Geo. 4 c. 80.	Bankers' Composition (Ireland) Act 1828.	In section 9 the words "or insolvent".
7 Wm. 4 & 1 Vict. c. 73.	Chartered Companies Act 1837.	In section 25 the word "insolvency," (four times).
10 & 11 Vict. c. 16.	Commissioners Clauses Act 1847.	In section 8 the words "or insolvent".
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857.	<p>In section 4 the definitions of "Lord Chancellor", "Joint stock company", "petition of insolvency", "Prisoner", "Gaoler" and "Insolvent", in the definition of "Assignees", the words "and joint stock company", in the definition of "Creditor" the words "or insolvent", in the definition of "Bankrupt" the words "on any petition of bankruptcy", in the definition of "Creditor" the words "and joint stock" and in the definition of "Petitioning creditor" the words "or a petition of insolvency against an insolvent".</p> <p>In section 24 the words "and insolvency", "and insolvent" and "or insolvent" and the words "or insolvency" (twice).</p> <p>Section 54.</p> <p>Section 59.</p> <p>In section 60 the words "and insolvent's" and "and insolvent" and the words from "save" onwards.</p> <p>In section 63 the words "and insolvent's".</p> <p>Section 67.</p> <p>In section 72 the words "or insolvent" in the first two places where they occur, and the words from "and insolvent" onwards.</p>

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extent of repeal</i>
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857 — (contd.).	<p>Section 76.</p> <p>Sections 118 and 119.</p> <p>In section 126 the words “the trading of or”, “trading or” and “trading and”.</p> <p>In section 127 the words “trading and” (twice) and, “upon the application of such trader, and upon proof of the trading”.</p> <p>In section 129 the word “Dublin” (twice), the words “any or” and the word “trading” (twice).</p> <p>In section 149 the words “Dublin” and “Belfast”.</p> <p>Section 245.</p> <p>In section 250 the words “or insolvent” wherever occur- ing and the words “or insolvency”.</p> <p>In section 260 the words “or insolvency”.</p> <p>In section 262 the words “or insolvent” and “or insolvency” wherever (in each case) those words occur.</p> <p>In section 265 the words “or insolvent’s”.</p> <p>In section 266 the words “or insolvent” (twice).</p> <p>In section 267 the words from “and upon the filing” to “Act,)”, the words “or insolvent” wherever occurring, and the words “according to the custom of the City of Dublin or otherwise”.</p> <p>In section 268 the words from “and upon the filing” to “Act,)” and the words “or insolvent” wherever occurring.</p>

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extent of repeal</i>
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857 — (contd.).	<p>Section 270.</p> <p>In section 271 the words “or insolvent” wherever occurring and the words “or insolvency”.</p> <p>In section 272 the words “or insolvent” (twice).</p> <p>In section 273 the words “or insolvent” and the words from “(except” to “benefice”.</p> <p>In section 274 the words “or insolvent’s” and the words “or insolvent” wherever occurring.</p> <p>In section 275 the words “or insolvent” (twice).</p> <p>In section 276 the words “or insolvent” and</p> <p>In section 278 the words “or insolvent” and “or the filing the petition of insolvency”.</p> <p>In section 279 the words “with the leave of the Court” and “with like leave of the Court”, the words “or insolvent” (twice) and the words “or insolvent’s”.</p> <p>In section 281 the words “or insolvent” and “or insolvency”.</p> <p>Section 282.</p> <p>In section 291 the words “or insolvent”.</p> <p>In section 299 the words “or insolvent’s” and “or insolvent” (three times).</p> <p>Section 300.</p> <p>Sections 302 and 303.</p>

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extnt of repeal</i>
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857 — (contd.).	<p>In section 306 the words “or insolvent” (four times) and in section 307 those words (twice).</p> <p>In section 308 the words “or the filing of a petition in insolvency” and the words “or insolvent” (three times).</p> <p>In sections 310 and 311 the words “or insolvent” wherever occurring.</p> <p>In section 313 the words from “or if” to “imprisonment” and the words “or insolvency”.</p> <p>Section 315.</p> <p>In section 317 the words “and insolvents”.</p> <p>In sections 318 and 319 the words “or insolvent” wherever occurring.</p> <p>In section 323 the words “or insolvency” and “or insolvent”.</p> <p>In section 324 the word “Dublin” and the words “or insolvent” in the first and third places where they occur.</p> <p>In section 326 the words “or insolvent” (twice).</p> <p>In section 340 the words “forty-eight” and the words from “and to proceedings” to “insolvency” in the second place where it occurs.</p> <p>In section 343 the words “, except in the cases next hereinafter mentioned,” and the words from “and may take bail” onwards.</p>

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extent of repeal</i>
20 & 21 Vict. c. 60.	Irish Bankrupt and Insolvent Act 1857 — (contd.).	<p>In section 355 the words “or insolvency”</p> <p>In section 357 the word “insolvent” (eight times), the word “or” immediately preceding “insolvent” in the second and fifth places in which it occurs and the word “commission” (four times).</p> <p>In section 358 the word “Dublin”.</p> <p>In section 359 the words “trading or” and “respectively,”.</p> <p>Sections 360 to 363.</p> <p>In section 364 the word “Dublin”.</p> <p>In section 365 the words “, trading” and “hereto- fore or hereafter,”.</p> <p>Sections 368, 391 and 396.</p> <p>In section 399 the words “or insolvent”.</p>
28 & 29 Vict. c. 21.	Irish Bankrupt and Insolvent Amendment Act 1865.	The whole Act.
35 & 36 Vict. c. 57.	Debtors Act (Ireland) 1872.	<p>In section 11(2) the words “, or, to imprisonment for a term not exceeding two years”.</p> <p>Section 22.</p>
35 & 36 Vict. c. 58.	Bankruptcy (Ireland) Amendment Act 1872.	<p>Sections 17, 18, 22, 23, 28 and 29.</p> <p>In section 53 the word “to” (where thirdly occurring).</p> <p>In section 66 the words from “and the Court” to “any other Court”, the words “instead of by the Court itself” and the words from “and such trial” onwards.</p>

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extent of repeal</i>
35 & 36 Vict. c. 58.	Bankruptcy (Ireland) Amendment Act 1872— (contd.).	<p>In section 73 the words “ , “keeper, or gaoler” (twice) and “or such chairman of quarter sessions”.</p> <p>In section 76 the words “or trustees” (where secondly occurring).</p> <p>In section 78 the words “addressed to any constable or prescribed officer of the Court”.</p> <p>Sections 81 to 86.</p> <p>In section 101 the word “To” at the beginning of paragraph (5).</p>
53 & 54 Vict. c. 24.	Deeds of Arrangement Amendment Act 1890.	In section 2(7) the words “and of section one of this Act”.
14 & 15 Geo. 5 c. 27.	Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.	Section 6(4).
20 Geo. 5 c. 1.	Bankruptcy Amendment Act (Northern Ireland) 1929.	<p>Section 1(c).</p> <p>In section 4(1) the word “Belfast”.</p> <p>In section 21(4) the words “of the court”.</p> <p>In section 23(2) the words in section 11(2) of the Debtors Act (Ireland) 1872 specified above.</p> <p>Section 24.</p>
1964 c. 32.	Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.	The whole Act except sections 2(4) and 3.
1965 c. 25.	Finance Act 1965.	In Schedule 10, paragraph 15.
1969 c. 30.	Judgments (Enforcement) Act (Northern Ireland) 1969.	<p>In section 94 the words “(1) and”.</p> <p>In section 96(2) the words from the beginning to “1857”.</p>

<i>Chapter or Number</i>	<i>Title or Short Title</i>	<i>Extent of repeal</i>
1972 c. 11.	Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.	In Schedule 2, paragraph 14.
1972 c. 41.	Finance Act 1972.	Section 41(1)(c) and (2)(c). In Schedule 7 paragraph 18(1)(c) and (2)(c).
1975 c. 18.	Social Security (Consequential Provisions) Act 1975.	In Schedule 2 Part II, paragraph 82.
1975 c. 45.	Finance (No. 2) Act 1975.	In section 71(6) the words from "and section 1(1)" onwards.
S.I. 1975/1503 (N.I. 15).	Social Security Pensions (Northern Ireland) Order 1975.	In Schedule 5, paragraph 6.
1976 c. 24.	Development Land Tax Act 1976.	Section 42(2) and (4)(e).
S.I. 1976/582 (N.I. 12).	Solicitors (Northern Ireland) Order 1976.	Article 41(1).
S.I. 1976/2147 (N.I. 28)	Industrial Relations (No. 2) (Northern Ireland) Order 1976.	Article 43. In Article 62(1) the word "43,". In Schedule 4 paragraph 5(7) and (8).
S.I. 1977/1253 (N.I. 20).	Preferential Payments in Insolvency (Northern Ireland) Order 1977.	The whole Order so far as unrepealed.
S.I. 1977/2157 (N.I. 28).	Rates (Northern Ireland) Order 1977.	In Schedule 15 Part I, paragraph 15.
1978 c. 23.	Judicature (Northern Ireland) Act 1978.	In Schedule 5 the third entry relating to the Irish Bankrupt and Insolvent Act 1857 (amendment of section 59).

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

This Order brings into operation on 12th June 1980 provisions of the Bankruptcy Amendment (Northern Ireland) Order 1980 relating to the Official Assignee, acts of bankruptcy and preferential payments. It also brings into operation provisions about powers of the court, regulations and other miscellaneous matters.