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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

**NORTHERN IRELAND**

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

*Made - - - - 2005  
Coming into operation in accordance with Article  
1(2) and (3)*

**THE INSOLVENCY (NORTHERN IRELAND) ORDER 2005**

*Introductory*

1. Title and commencement
2. Interpretation

*Companies etc.*

3. Replacement of Part III of the 1989 Order
4. Special administration regimes
5. Prohibition on appointment of administrative receiver
6. Abolition of Crown preference
7. Unsecured creditors
8. Liquidator's powers
9. Application of insolvency law to company incorporated outside Northern Ireland
10. Application of law about company arrangement or administration to non-company
11. Voluntary arrangements: minor amendments

*Individuals*

12. Duration of, and discharge from, bankruptcy
13. Post-discharge restrictions
14. Investigation by official receiver
15. Income payments order
16. Income payments agreement
17. Bankrupt's home
18. Bankrupt's home: civil partnership
19. Powers of trustee in bankruptcy
20. Repeal of certain bankruptcy offences
21. Individual voluntary arrangement

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.

22. Disqualification for office: the Assembly
23. Disqualification for office: district councils
24. Disqualification for office: general
25. Minor and consequential amendments relating to individual insolvency

*Money*

26. Fees
27. Insolvency Account: interest
28. Insolvency Account: adjustment of balances

*Miscellaneous*

29. Transitional or transitory provision and savings
30. Power to make consequential amendments etc.
31. Repeals  
Signature

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SCHEDULES

SCHEDULE 1 — SCHEDULE B1 TO THE 1989 ORDER

SCHEDULE 2 — ADMINISTRATION: MINOR AND CONSEQUENTIAL AMENDMENTS

*General*

1. In any instrument made before Article 3(1) to (3) comes...

*The Third Parties (Rights against Insurers) Act (Northern Ireland) 1930 (NI 19)*

2. The Third Parties (Rights against Insurers) Act (Northern Ireland) 1930...
3. In section 1 (rights of third parties against insurers on...
4. In section 2 (duty to give necessary information to third...

*The Criminal Justice Act (Northern Ireland) 1945 (c. 15)*

5. In section 35(4A) of the Criminal Justice Act (Northern Ireland)...

*The Transport Act (Northern Ireland) 1967 (c. 37)*

6. The Transport Act (Northern Ireland) 1967 shall be amended as...
7. In section 7(1A)(b)(ii) (conditions of road service licences) after “liquidation”...
8. In section 15A(1)(b)(ii) (conditions of operators' licences) after “liquidation” insert...
9. In section 33(2)(c) (transfer of licences) after “appointed” insert “or...

*The Solicitors (Northern Ireland) Order 1976 (NI 12)*

10. In Schedule 1A to the Solicitors (Northern Ireland) Order 1976...

*The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)*

11. In Article 92A(1) of the Magistrates' Courts (Northern Ireland) Order...

*The Companies (Northern Ireland) Order 1986 (NI 6)*

12. The Companies (Northern Ireland) Order 1986 shall be amended as...
13. In Article 233 (alteration of accounting reference date)—
14. In Article 418(1) (power of company to compromise) for “an...
15. In Article 420A(3) (mergers and divisions of public companies) for...
16. In Article 603B(3) (duty when applying to strike off defunct...
17. In Article 603C(4) (director’s duty following application to strike off...

*The 1989 Order*

18. The 1989 Order shall be amended as follows.
19. In Article 5(1) (interpretation), omit the definitions of “administrator” and...
20. (1) Article 6 (meaning of “insolvency” and “go into liquidation”)...
21. In Article 14 (proposal for company voluntary arrangement)—
22. In Article 18(3) (approval of company voluntary arrangement)—
23. In Article 19(2)(c) (challenge of decision in relation to company...
24. After Article 70(1) (voluntary winding up) insert—
25. At the end of Article 86 (creditors' voluntary winding up...
26. At the end of Article 107 (winding-up: avoidance of property...
27. After Article 109(1) (commencement of winding up) insert—
28. In Article 119 (appointment by High Court of liquidator following...
29. In Article 176 (misfeasance of officers)— (a) in paragraph (1)(b)...
30. Article 194(1) (administrator to be qualified insolvency practitioner) shall cease...
31. In Article 195(1) and (2) (appointment to office of two...
32. In Article 196 (validity of office-holder’s act) omit “administrator,”.
33. In Article 197 (utility supplies)— (a) for paragraph (1)(a) substitute—...
34. For Article 198(1)(a) (getting in the company’s property) substitute—
35. For Article 199(4)(a) (co-operation with office-holder) substitute—
36. For Article 202(1)(a) (transactions at an undervalue) substitute—
37. (1) Article 204 (relevant time for Articles 202 and 203)...
38. (1) Article 205 (order under Article 202 or 203) shall...
39. In Article 206(2) (extortionate credit transaction) for “the day on...
40. (1) Article 207 (avoidance of floating charge) shall be amended...
41. For Article 208(1)(a) (unenforceability of lien on records) substitute—
42. (1) Article 347 (preferential debts: “the relevant date”) shall be...
43. (1) Article 366 (power to apply Parts II to VII...
44. In Article 368(1)(a) (application for order in relation to transaction...
45. (1) Schedule A1 (moratorium where directors propose voluntary arrangement) shall...
46. (1) Schedule 5 (scope of insolvency rules) shall be amended...
47. (1) Schedule 7 (punishment of offences) shall be amended as...

*The Companies (No. 2) (Northern Ireland) Order 1990 (NI 10)*

48. The Companies (No. 2) (Northern Ireland) Order 1990 shall be...
49. In Article 81 (modification of insolvency law)—
50. In Article 84(4) (disapplication of provisions to default proceedings) for...
51. After Article 90(1) (application by exchange or clearing house about...
52. (1) Article 97 (financial markets: administration) shall be amended as...

*The Pension Schemes (Northern Ireland) Act 1993 (c. 49)*

53. In section 119 of the Pension Schemes (Northern Ireland) Act...

*The Employment Rights (Northern Ireland) Order 1996 (NI 16)*

54. (1) The Employment Rights (Northern Ireland) Order 1996 shall be...

*The Construction Contracts (Northern Ireland) Order 1997 (NI 1)*

55. In Article 12(1) of the Construction Contracts (Northern Ireland) Order...

*The Financial Services and Markets Act 2000 (c. 8)*

56. The Financial Services and Markets Act 2000 shall be amended...  
57. (1) Section 215 (provision of Financial Services Compensation Scheme in...  
58. (1) Section 359 (administration order) shall be amended as follows...  
59. In section 361(1) (administrator to report to Authority) for paragraph...  
60. (1) Section 362 (Financial Services Authority's right to participate in...  
61. (1) Section 362A shall be amended as follows.

*The Company Directors Disqualification (Northern Ireland) Order 2002 (NI 4)*

62. The Company Directors Disqualification (Northern Ireland) Order 2002 shall be...  
63. In Article 9 (duty of Court to disqualify unfit director...  
64. In Article 10(4) (duty of office-holder to report to Department)...  
65. In Part II of Schedule 1 (matters for determining unfitness...

SCHEDULE 3 — SCHEDULE 1A TO THE 1989 ORDER

SCHEDULE 4 — DURATION OF BANKRUPTCY: TRANSITIONAL PROVISIONS

*Introduction*

1. his Schedule applies to an individual who immediately before commencement—...  
2. In this Schedule— “commencement” means the date appointed under Article...

*Neither old law nor new law to apply*

3. Article 253 of the 1989 Order (bankruptcy: discharge) shall not...

*General rule for discharge from pre-commencement bankruptcy*

4. (1) A pre-commencement bankrupt is, subject to sub-paragraphs (2) and...

*Second-time bankruptcy*

5. (1) This paragraph applies to a pre-commencement bankrupt who was...

*Solicitors*

6. (1) This paragraph applies to a pre-commencement bankrupt—

*Income payments order*

7. (1) This paragraph applies where— (a) a pre-commencement bankrupt is...

SCHEDULE 5 — SCHEDULE 2A TO THE 1989 ORDER

## SCHEDULE 6 — EFFECT OF BANKRUPTCY RESTRICTIONS ORDER AND UNDERTAKING

### *Disqualification for acting as receiver or manager*

1. or Article 41 of the 1989 Order (receiver and manager:...

### *Bankruptcy offences after discharge*

2. After Article 321(3) of the 1989 Order (bankruptcy offences: general:...
3. At the end of Article 331 of the 1989 Order...

### *Disqualification for acting as insolvency practitioner*

4. At the end of Article 349 of the 1989 Order...

### *Prohibition against involvement in company*

5. For Article 15(1) of the Company Directors Disqualification (Northern Ireland)...

## SCHEDULE 7 — INDIVIDUAL VOLUNTARY ARRANGEMENT

### *Annulment of bankruptcy on making of voluntary arrangement*

1. For Article 235 of the 1989 Order (effect of voluntary...

### *Fast-track for making voluntary arrangement*

2. After Article 237 of the 1989 Order (implementation of voluntary...

### *Role of official receiver*

3. After Article 348A of the 1989 Order (authorisation of nominees...

## SCHEDULE 8 — INDIVIDUAL INSOLVENCY: MINOR AND CONSEQUENTIAL AMENDMENTS

1. The 1989 Order shall be amended as follows.
2. In Article 2(2) (general interpretation), in the definition of “the...
3. In Article 238(1) (who may present a bankruptcy petition), omit...
4. Article 249 (bankruptcy: summary administration) shall cease to have effect....
5. Article 251 (petition in respect of a solicitor) shall cease...
6. In Article 256 (annulment of bankruptcy)— (a) omit paragraph (3)...
7. For Article 264(4) (co-operation with official receiver) substitute—
8. In Article 265(1)(a) (trustee in bankruptcy: power to appoint) omit...
9. In Article 266(1) (trustee in bankruptcy: meeting to appoint) omit...
10. In Article 267(1) (power of creditors to requisition meeting) omit...
11. In Article 270 (trustee: special cases)— (a) omit paragraphs (1)...
12. Omit Article 271(2) (removal of trustee: summary administration).
13. In Article 273 (trustee: vacancy)— (a) omit paragraph (5), and...
14. In Article 325(5) (concealment of property) after “the official receiver”...
15. At the end of Article 326 (concealment and falsification of...
16. (1) Schedule 6 (scope of insolvency rules) shall be amended...
17. In Schedule 7 (punishment of offences)— (a) in the entry...

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## SCHEDULE 9 — REPEALS

### Explanatory Note