
STATUTORY INSTRUMENTS

2004 No. 355

**The Financial Services and Markets Act 2000
(Consequential Amendments) Order 2004**

NORTHERN IRELAND LEGISLATION

The Insolvent Partnerships Order (Northern Ireland) 1995 (S.R. 1995 No. 225)

Supplementary powers of the court: winding up of insolvent partnerships

22. In paragraph (1) of Article 15 of the Insolvent Partnerships Order (Northern Ireland) 1995 (supplemental powers of the court), for the text of paragraph (5C) of Article 143 of the Insolvency (Northern Ireland) Order 1989 (as that Article is modified by paragraph (1)), substitute—

“(5C) Where the High Court makes an order for the winding up of an insolvent partnership under—

- (a) section 73(1)(a) of the Financial Services Act 1986(1);
- (b) section 92(3)(a) of the Banking Act 1987(2); or
- (c) section 367(3) of the Financial Services and Markets Act 2000,

the Court may make an order as to the future conduct of the winding up proceedings, and any such order may apply any provisions of the Insolvent Partnerships Order (Northern Ireland) 1995 with any necessary modifications.”.

Partnerships which are authorised persons: administration orders

23.—(1) In paragraph 2 of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1995 (modified provisions of Part III of the Order), in the text of Article 21(1)(a) of the Insolvency (Northern Ireland) Order 1989 (as modified by that paragraph) after “or 188” insert “or paragraph (1A)”.

(2) In that paragraph, after the text of Article 21(1) of the Insolvency (Northern Ireland) Order 1989 (as modified by that paragraph) insert—

“(1A) An authorised deposit-taker which defaults on an obligation to pay any sum due and payable in respect of a relevant deposit is deemed to be unable to pay its debts.

(1B) In paragraph (1A)—

- (a) “authorised deposit taker” means a person (being a partnership) who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, other than a person who has such permission only for the purpose of carrying on another regulated activity in accordance with that permission; and
- (b) “relevant deposit” must be read with—

- (i) section 22 of the Financial Services and Markets Act 2000,

(1) 1986 c. 60; section 73 was amended by S.I.1989/2405 (N.I. 19), Article 381, Schedule 9, paragraph 47.

(2) 1987 c. 22; section 92 was amended by S.I. 1989/2405 (N.I. 19), Article 381, Schedule 9, paragraph 56.

- (ii) any relevant order under that section, and
- (iii) Schedule 2 to that Act,

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

(3) In that paragraph, for the text of Article 21(4) of the Insolvency (Northern Ireland) Order 1989 (as modified by that paragraph) substitute—

“(4) An administration order shall not be made in relation to a partnership after an order has been made for it to be wound up by the court as an unregistered company, nor after an order has been made in relation to it by virtue of Article 11 of the Insolvent Partnerships Order (Northern Ireland) 1995.

(4A) An administration order shall not be made against a partnership if—

- (a) it has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance in the United Kingdom;
- (b) it continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987, but is not an authorised deposit taker, within the meaning given by paragraph (1B).

(4B) The definition of “authorised deposit taker” in paragraph (1B)(a) and paragraph (4A)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

Authorised deposit takers and former authorised institutions: restriction on presentation of bankruptcy petition by partners

24.—(1) In paragraph 3 of Schedule 7 to the Insolvent Partnerships Order (Northern Ireland) 1995 (provisions of the Order which apply with modifications for the purposes of Article 11 where joint bankruptcy petition is presented by individual members without winding up partnership as unregistered company), in the text of Article 238(2) of the Insolvency (Northern Ireland) Order 1989 (as modified by that paragraph), for “which is an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute—

“if the partnership—

- (a) has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, other than such a permission only for the purpose of carrying on another regulated activity in accordance with that permission, or
- (b) continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.”.

(2) In that paragraph, in the text of Article 238 of the Insolvency (Northern Ireland) Order 1989 (as modified by that paragraph), after sub-paragraph (2) insert—

“(2A) Paragraph (2)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

Disqualification of a member of an insolvent partnership after investigation

25. In Schedule 8 to the Insolvent Partnerships Order (Northern Ireland) 1995 (provisions of Part II of the Companies (Northern Ireland) Order 1989 which apply with modifications for the purposes of Article 16), for the text of paragraphs (1) and (2) of Article 11 of the Companies (Northern Ireland) Order 1989 (as modified by that paragraph) substitute—

“(1) If it appears to the Department from—

(a) a report made by an inspector or person appointed to conduct an investigation under a provision mentioned in paragraph (1A), or

(b) information or documents obtained under a provision mentioned in paragraph (1B),

that it is expedient in the public interest that a disqualification order should be made against any person who is or has been an officer of an insolvent partnership, it may apply to the High Court for such an order to be made against that person.

(2) The provisions are—

(a) Article 430 of the Companies Order,

(b) section 167, 168, 169(1)(b) or 284 of the Financial Services and Markets Act 2000, or

(c) regulations made as a result of section 262(2)(k) of that Act.

(2A) The provisions are—

(a) Articles 440 or 441 of the Companies Order,

(b) section 2 of the Criminal Justice Act 1987⁽³⁾,

(c) section 28 of the Criminal Law (Consolidation) (Scotland) Act 1995⁽⁴⁾,

(d) section 83 of the Companies Act 1989⁽⁵⁾, or

(e) section 171 or 173 of the Financial Services and Markets Act 2000.”.

⁽³⁾ 1987 c. 38.

⁽⁴⁾ 1995 c. 39.

⁽⁵⁾ 1989 c. 40.