
STATUTORY INSTRUMENTS

2005 No. 1644

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) (Northern Ireland) Order 2005

<i>Made</i>	- - - -	<i>20th June 2005</i>
<i>Laid before Parliament</i>		<i>21st June 2005</i>
<i>Coming into force</i>	- -	<i>1st October 2005</i>

The Treasury, in exercise of the powers conferred upon them by sections 360, 426 and 428(3) of the Financial Services and Markets Act 2000(1), with the consent of the Secretary of State, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) (Northern Ireland) Order 2005 and comes into force on 1 October 2005.

(2) In this Order—

“the 1989 Order” means the Insolvency (Northern Ireland) Order 1989(2);

“Article 35 meeting” means a meeting held under Article 35 of the 1989 Order.

Modification of Part III of the 1989 Order in relation to insurers

2. Part III of the 1989 Order (administration orders) applies in relation to insurers with the modifications specified in the Schedule to this Order, and accordingly Article 21(5)(a)(3) of that Order does not preclude the making of an administration order in relation to an insurer.

Modification of the Insolvency Rules (Northern Ireland) 1991 in relation to insurers

3. The Insolvency Rules (Northern Ireland) 1991(4), so far as they give effect to Part III of the 1989 Order, have effect in relation to insurers with the modification that in Rule 2. 10(1) of those Rules (the hearing) there is inserted after sub-paragraph (a) the following sub-paragraph—

“(aa) the Financial Services Authority;”.

(1) 2000 c. 8.

(2) S.I. 1989/2405 (N.I. 19).

(3) Article 21(5) was inserted by S.I. 2001/3649, article 401.

(4) S.R. 1991 No. 364.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Mutual credit and set-off

4. Where an insurer, in relation to which an administration order has been made, subsequently goes into liquidation, sums due from the insurer to another party are not to be included in the account of mutual dealings rendered under Rule 4.096 of the Insolvency Rules (Northern Ireland) 1991 (mutual credit and set-off) if, at the time they become due, a petition has been presented to the court under Article 22 of the 1989 Order (application for an administration order) in relation to the insurer.

Tom Watson,
Gillian Merron
Two of the Lords Commissioners of Her
Majesty's Treasury

20th June 2005

I consent

Paul Murphy
One of Her Majesty's Principal Secretaries of
State

Northern Ireland Office
7th June 2005

SCHEDULE

Article 2

MODIFICATIONS OF PART III OF THE 1989 ORDER IN RELATION TO INSURERS

1. In paragraph (3) of Article 26 (appointment of administrator),(5) at the end of paragraph (c) add—

“or

(d) by the Financial Services Authority”.

2. In paragraph (1) of Article 30 (discharge or variation of administration order), after “company” insert “or the Financial Services Authority”.

3. In paragraph (1)(a) of Article 35 (statement of proposals), after “registrar” insert “, the Financial Services Authority”.

4. In paragraph (4) of Article 36 (consideration of proposals by creditors' meeting), after “registrar” insert “, the Financial Services Authority”.

5. In paragraph (2)(a) of Article 37 (approval of substantial revisions), after “addresses)” insert “and the Financial Services Authority”.

6.—(1) The powers of the administrator referred to in Schedule 1 to the 1989 Order (powers of administrator or administrative receiver) include the power to make—

(a) any payments due to a creditor; or

(b) any payments on account of any sum which may become due to a creditor.

(2) Any payments to a creditor made pursuant to sub-paragraph (1) must not exceed, in aggregate, the amount which the administrator reasonably considers that the creditor would be entitled to receive on a distribution of the insurer’s assets in a winding up.

(3) The powers conferred by sub-paragraph (1) may be exercised until an Article 35 meeting but may only be exercised thereafter—

(a) if the following conditions are met—

(i) the administrator has laid before the Article 35 meeting or any subsequent creditors' meeting (“the relevant meeting”) a statement containing the information mentioned in sub-paragraph (4); and

(ii) the powers are exercised with the consent of a majority in number representing three-fourths in value of the creditors present and voting either in person or by proxy at the relevant meeting; or

(b) with the consent of the High Court.

(4) The information referred to in sub-paragraph (3)(a) is an estimate of the aggregate amount of—

(a) the insurer’s assets and liabilities (whether actual, contingent or prospective); and

(b) all payments which the administrator proposes to make to creditors pursuant to sub-paragraph (1),

including any assumptions which the administrator has made in calculating that estimate.

(5) Articles 26, 35 and 37 were amended, in relation to companies which are authorised institutions or former authorised institutions under the Banking Act 1987, by S.R. (N.I.) 1991/295 as amended by S.I. 2001/3649, article 414 and S.I. 2004/355, article 16.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, in relation to insurers, Part III of the Insolvency (Northern Ireland) Order 1989 (S.I.1989/2405 (N.I.19)) with various modifications set out in the Schedule. Article 2 enables administration orders to be made in relation to such insurers. Article 4 provides that insolvency rules relating to mutual credit and set-off do not apply to sums due from an insurer to another party where, at the time the sums became due, an application for an administration order had been made in relation to the insurer.