

INSOLVENCY (NORTHERN IRELAND) ORDER 2005

S.I. 2005 1455

EXPLANATORY MEMORANDUM

COMMENTARY ON PROVISIONS

Article 13, Schedule 5 and Schedule 6: Post-discharge restrictions

Article 13 inserts new Article 255A into the Insolvency (NI) Order 1989 which gives effect to Schedule 2A and provides for Schedule 2A to be inserted into the Insolvency (NI) Order 1989 by Schedule 5 to this Order and for the amendments set out in Schedule 6 to have effect.

New Schedule 2A will enable the High Court to make a bankruptcy restrictions order lasting for a minimum of two years and a maximum of fifteen years on the application of the Department or the Official Receiver acting on the direction of the Department.

Paragraphs 7-9 of new Schedule 2A make it possible for a bankrupt to agree to be bound by similar restrictions by giving a bankruptcy restrictions undertaking to the Department.

Schedule 6 extends those provisions of the Insolvency (NI) Order 1989 which place restrictions on bankrupts through making certain conduct an offence to cover individuals subject to bankruptcy restrictions orders and undertakings. Such conduct includes, acting as receiver or manager of a company's property on behalf of a debenture holder, obtaining credit above the prescribed limit without disclosing that you are subject to a bankruptcy restrictions order, trading in a name other than that under which you were made bankrupt, acting as an insolvency practitioner, and acting as a company director.