

SCHEDULES

SCHEDULE 1

Section 21(10).

SINGLE REGULATOR OF INSOLVENCY PRACTITIONERS: SUPPLEMENTARY PROVISION

Operation of this Schedule

- 1.—(1) This Schedule has effect in relation to regulations under section 21 designating a body (referred to in this Schedule as “the Regulations”) as follows—
- (a) paragraphs 2 to 13 have effect where the Regulations establish the body;
 - (b) paragraphs 6, 7 and 9 to 13 have effect where the Regulations designate an existing body (see section 21(2)(b));
 - (c) paragraph 14 also has effect where the Regulations designate an existing body that is an unincorporated association.
- (2) Provision made in the Regulations by virtue of paragraph 6 or 12, where that paragraph has effect as mentioned in sub-paragraph (1)(b), may only apply in relation to—
- (a) things done by or in relation to the body in or in connection with the exercise of functions conferred on it by the Regulations; and
 - (b) functions of the body which are functions so conferred.

Name, members and chair

- 2.—(1) The Regulations must prescribe the name by which the body is to be known.
- (2) The Regulations must provide that the members of the body must be appointed by the Department after such consultation as the Department thinks appropriate.
- (3) The Regulations must provide that the Department must appoint one of the members as the chair of the body.
- (4) The Regulations may include provision about—
- (a) the terms on which the members of the body hold and vacate office;
 - (b) the terms on which the person appointed as the chair holds and vacates that office.

Remuneration etc.

3.—(1) The Regulations must provide that the body must pay to its chair and members such remuneration and allowances in respect of expenses properly incurred by them in the exercise of their functions as the Department may determine.

(2) The Regulations must provide that, as regards any member (including the chair) in whose case the Department so determines, the body must pay or make provision for the payment of—

- (a) such pension, allowance or gratuity to or in respect of that person on retirement or death as the Department may determine; or
- (b) such contributions or other payment towards the provision of such a pension, allowance or gratuity as the Department may determine.

(3) The Regulations must provide that where—

- (a) a person ceases to be a member of the body otherwise than on the expiry of the term of office; and
- (b) it appears to the Department that there are special circumstances which make it right for that person to be compensated,

the body must make a payment to the person by way of compensation of such amount as the Department may determine.

Staff

4. The Regulations must provide that—

- (a) the body may appoint such persons to be its employees as the body considers appropriate; and
- (b) the employees are to be appointed on such terms and conditions as the body may determine.

Proceedings

5.—(1) The Regulations may make provision about the proceedings of the body.

(2) The Regulations may, in particular—

- (a) authorise the body to exercise any function by means of committees consisting wholly or partly of members of the body;
- (b) provide that the validity of proceedings of the body, or of any such committee, is not affected by any vacancy among the members or any defect in the appointment of a member.

Fees

6.—(1) The Regulations may make provision—

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- (a) about the setting and charging of fees by the body in connection with the exercise of its functions;
 - (b) for the retention by the body of any such fees payable to it;
 - (c) about the application by the body of such fees.
- (2) The Regulations may, in particular, make provision—
- (a) for the body to be able to set such fees as appear to it to be sufficient to defray the expenses of the body exercising its functions, taking one year with another;
 - (b) for the setting of fees by the body to be subject to the approval of the Department.
- (3) The expenses referred to in sub-paragraph (2)(a) include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper exercise of its functions.

Consultation

7. The Regulations may make provision as to the circumstances and manner in which the body must consult others before exercising any function conferred on it by the Regulations.

Training and other services

- 8.—(1) The Regulations may make provision authorising the body to provide training or other services to any person.
- (2) The Regulations may make provision authorising the body—
- (a) to charge for the provision of any such training or other services; and
 - (b) to calculate any such charge on the basis that it considers to be the appropriate commercial basis.

Report and accounts

- 9.—(1) The Regulations must require the body, at least once in each 12 month period, to report to the Department on—
- (a) the exercise of the functions conferred on it by the Regulations; and
 - (b) such other matters as may be prescribed in the Regulations.
- (2) The Regulations must require the Department to lay before the Assembly a copy of each report received under this paragraph.
- (3) Unless section 394 of the Companies Act 2006 applies to the body (duty on every company to prepare individual accounts), the Regulations must provide that

the Department may give directions to the body with respect to the preparation of its accounts.

(4) Unless the body falls within sub-paragraph (5), the Regulations must provide that the Department may give directions to the body with respect to the audit of its accounts.

(5) The body falls within this sub-paragraph if it is a company whose accounts—

- (a) are required to be audited in accordance with Part 16 of the Companies Act 2006 (see section 475 of that Act); or
- (b) are exempt from the requirements of that Part under section 482 of that Act (non-profit making companies subject to public sector audit).

(6) The Regulations may provide that, whether or not section 394 of the Companies Act 2006 applies to the body, the Department may direct that any provisions of that Act specified in the directions are to apply to the body with or without modifications.

Funding

10. The Regulations may provide that the Department may make grants to the body.

Financial penalties

11.—(1) This paragraph applies where the Regulations include provision enabling the body to impose a financial penalty on a person who is, or has been, authorised to act as an insolvency practitioner (see section 21(5)).

(2) The Regulations—

- (a) must include provision about how the body is to determine the amount of a penalty; and
- (b) may, in particular, prescribe a minimum or maximum amount.

(3) The Regulations must provide that, unless the Department (with the consent of the Department of Finance and Personnel) otherwise directs, income from penalties imposed by the body is to be paid into the Consolidated Fund.

(4) The Regulations may also, in particular—

- (a) include provision for a penalty imposed by the body to be enforced as a debt;
- (b) prescribe conditions that must be met before any action to enforce a penalty may be taken.

Status etc.

12. The Regulations must provide that—

- (a) the body is not to be regarded as acting on behalf of the Crown; and
- (b) its members, officers and employees are not to be regarded as Crown servants.

Transfer schemes

13.—(1) This paragraph applies if the Regulations make provision designating a body (whether one established by the Regulations or one already in existence) in place of a body designated by earlier regulations under section 21; and those bodies are referred to as the “new body” and the “former body” respectively.

(2) The Regulations may make provision authorising the Department to make a scheme (a “transfer scheme”) for the transfer of property, rights and liabilities from the former body to the new body.

(3) The Regulations may provide that a transfer scheme may include provision—

- (a) about the transfer of property, rights and liabilities that could not otherwise be transferred;
- (b) about the transfer of property acquired, and rights and liabilities arising, after the making of the scheme.

(4) The Regulations may provide that a transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—

- (a) create rights, or impose liabilities, in relation to property or rights transferred;
- (b) make provision about the continuing effect of things done by the former body in respect of anything transferred;
- (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the former body in respect of anything transferred;
- (d) make provision for references to the former body in an instrument or other document in respect of anything transferred to be treated as references to the new body;
- (e) make provision for the shared ownership or use of property;
- (f) if the TUPE regulations do not apply to in relation to the transfer, make provision which is the same or similar.

(5) The Regulations must provide that, where the former body is an existing body, a transfer scheme may only make provision in relation to—

- (a) things done by or in relation to the former body in or in connection with the exercise of functions conferred on it by previous regulations under section 21; and
- (b) functions of the body which are functions so conferred.

(6) In sub-paragraph (4)(f), “TUPE regulations” means the [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(SI 2006/246\)](#).

(7) In this paragraph—

- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
- (b) references to the transfer of property include the grant of a lease.

Additional provision where body is unincorporated association

14.—(1) This paragraph applies where the body is an unincorporated association.

(2) The Regulations must provide that any relevant proceedings may be brought by or against the body in the name of any body corporate whose constitution provides for the establishment of the body.

(3) In sub-paragraph (2) “relevant proceedings” means proceedings brought in or in connection with the exercise of any function conferred on the body by the Regulations.

SCHEDULE 2

Section 27(1).

TRANSITIONAL PROVISIONS

Requirements relating to meetings

1. The amendments made to Articles 79 and 91 of the Insolvency Order (progress reports in a winding up) by section 3 do not apply in respect of a company in voluntary winding up where the resolution for voluntary winding up was passed before the day on which section 3 comes into operation.

2. The amendments made to Articles 81 and 84 of the Insolvency Order by section 4 (notice of creditors’ meeting) do not apply in respect of a company in voluntary winding up where the resolution for voluntary winding up was passed before the day on which section 4 comes into operation.

Reports in individual voluntary arrangements

3. The amendments made to the Insolvency Order by section 5 do not apply in respect of a proposal for a voluntary arrangement under Part 8 of the Insolvency Order where—

- (a) Article 230A of that Order applies; and
- (b) a person agrees to act as nominee in respect of the proposal before the day on which section 5 comes into operation.

Powers of liquidator

4. The amendments made to Schedule 2 to the Insolvency Order (powers of liquidator in a winding up) by section 7 do not apply in respect of any proceedings under the Insolvency Order where—

- (a) in the case of a company in voluntary winding up, the resolution for voluntary winding up was passed before the day on which section 7 comes into operation;
- (b) in the case of a company in voluntary winding up pursuant to paragraph 84 of Schedule B1 to the Insolvency Order (moving from administration to creditors' voluntary liquidation), the company entered the preceding administration before the day on which section 7 comes into operation;
- (c) in the case of a company in winding up following an order for the conversion of administration or a voluntary arrangement into winding up by virtue of Article 37 of Council Regulation (EC) No. 1346/2000 on insolvency proceedings, the order for conversion was made before the day on which section 7 comes into operation; and
- (d) in the case of a company being wound up by the High Court, the winding up order was made before the day on which section 7 comes into operation.

Powers of trustee

5. The amendments made to Schedule 3 to the Insolvency Order (powers of trustee in bankruptcy) by section 8 do not apply in respect of any proceedings under the Insolvency Order where—

- (a) the debtor was adjudged bankrupt before the day on which section 8 comes into operation; and
- (b) in the case of a bankruptcy following an order for the conversion of a voluntary arrangement into a bankruptcy by virtue of Article 37 of Council Regulation (EC) No. 1346/2000, the order for conversion was made before the day on which section 8 comes into operation.

Definition of debt

6. The amendments made to the Insolvency Order by section 9 apply where a company enters administration on or after the relevant day, except where—

- (a) the company enters administration by virtue of an administration order under paragraph 11 of Schedule B1 to the Insolvency Order on an application made before the relevant day;
- (b) the administration is immediately preceded by a voluntary liquidation in respect of which the resolution to wind up was passed before the relevant day;

- (c) the administration is immediately preceded by a liquidation on the making of a winding up order on a petition which was presented before the relevant day.

7. The amendments made to the Insolvency Order by section 9 apply where a company goes into liquidation upon the passing on or after the relevant day of a resolution to wind up.

8. The amendments made to the Insolvency Order by section 9 apply where a company goes into voluntary liquidation under paragraph 84 of Schedule B1 to the Insolvency Order, except where—

- (a) the company entered the preceding administration before the relevant day; or
- (b) the company entered the preceding administration by virtue of an administration order under paragraph 11 of Schedule B1 to the Insolvency Order on an application which was made before the relevant day.

9. The amendments made to the Insolvency Order by section 9 apply where a company goes into liquidation on the making of a winding up order on a petition presented on or after the relevant day, except where the liquidation is immediately preceded by—

- (a) an administration under paragraph 11 of Schedule B1 to the Insolvency Order where the administration order was made on an application made before the relevant day;
- (b) an administration in respect of which the appointment of an administrator under paragraph 15 or 23 of Schedule B1 to the Insolvency Order took effect before the relevant day; or
- (c) a voluntary liquidation in respect of which the resolution to wind up was passed before the relevant day.

10. In paragraphs 6 to 9, “the relevant day” means the day on which section 9 comes into operation.

Authorisation of insolvency practitioners

11. For the purposes of this paragraph and paragraphs 12 to 16—

“the commencement date” is the date on which section 14(5) comes into operation;

“the transitional period” is the period of 1 year beginning with the commencement date.

12. Where, immediately before the commencement date, a person holds an authorisation granted under Article 352 of the Insolvency Order, Article 352(3A) to (6) of that Order together with, for the purposes of this paragraph, sub-paragraphs (a) and (b) of Article 352(2) of that Order (which are repealed by section 14(5))

continue to have effect in relation to the person and the authorisation during the transitional period.

13. During the transitional period, a person to whom paragraph 12 applies is to be treated for the purposes of Part 12 of the Insolvency Order as fully authorised under Article 349A of that Order (as inserted by section 14(3) of this Act) to act as an insolvency practitioner unless and until the person’s authorisation is (by virtue of paragraph 12) withdrawn.

14. Where, immediately before the commencement date, a person has applied under Article 351 of the Insolvency Order for authorisation to act as an insolvency practitioner and the application has not been granted, refused or withdrawn, Article 351(4) to (7) and 352(1) and (2) of that Order (which are repealed by section 14(5)) continue to have effect in relation to the person and the application during the transitional period.

15. Where, during the transitional period, an authorisation is (by virtue of paragraph 14) granted under Article 352 of the Insolvency Order, paragraphs 12 and 13 apply as if—

- (a) the authorisation had been granted immediately before the commencement date;
- (b) in paragraph 12, the reference to Article 352(3A) to (6) were a reference to Article 352(4) to (6).

16. For the purposes of paragraphs 12 and 14, Articles 353 and 354 of the Insolvency Order (which are repealed by section 14(5)) continue to have effect during the transitional period.

SCHEDULE 3

Section 27(2).

MINOR AND CONSEQUENTIAL AMENDMENTS

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

1. In Article 13(1)(k), for the words from “has entered” to the end substitute “a composition or scheme proposed by the solicitor has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989.”.

2. In Article 14A(2)(b), for paragraph (b) substitute—

- “(b) a composition or scheme proposed by the solicitor has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989; or”.

3. In Article 41(3)(a), for the words from “or enters” to “dies” substitute “, or a composition or scheme proposed by the solicitor has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989 or the solicitor dies”.

The Insolvency (Northern Ireland) Order 1989 (NI 19)

4. In Article 14(2), omit “or authorised to act as nominee,”.
5. In Article 15(4), omit “, or authorised to act as nominee,”.
6. In Article 17(2), omit “or authorised to act as nominee,”.
7. In Article 20(5), omit “or authorised to act as supervisor,”.
8. In Article 103(1)(a), for “a demand” substitute “a written demand”.
9. In Article 185, after paragraph (2) insert—

“(2A) For all purposes of winding up, the principal place of business in Northern Ireland of the unregistered company is deemed to be the registered office of the company.”.
10. In Article 186(1)(a) after “written demand” insert “(known as “the statutory demand”)”.
11. In Article 242(1)(a) for “a demand” substitute “a written demand”.
12. In Article 242(2)(a) for “a demand” substitute “a written demand”.
13. In Article 343(1), after “the interim receiver” insert “or”.
14. Omit Article 348(1A).
15. Omit Article 348A.
16. Omit Article 361A(2).
17. In Schedule A1—
 - (a) in paragraph 38(1), omit “, or authorised to act as nominee,”;
 - (b) in paragraph 41(2), omit “, or authorised to act as nominee,”;
 - (c) in paragraph 43(1), omit “, or authorised to act as nominee,”;
 - (d) in paragraph 49(6), omit “, or authorised to act as supervisor,”.
18. In Schedule B1, in paragraph 1A, for “outside Northern Ireland” substitute “outside the United Kingdom”.
19. In Schedule 1, in paragraph 3, at the beginning insert “Without prejudice to Article 28 or 30 of the Property (Northern Ireland) Order 1997,”.

The Pensions (Northern Ireland) Order 2005 (NI 1)

20. In Article 105(2)(b), for “or 230A(3)” substitute “of that Order or a report to the individual’s creditors under Article 230A(3)”.

The Insolvency (Northern Ireland) Order 2005 (NI 10)

21. Omit Article 26(3).

SCHEDULE 4

Section 27(3).

REPEALS

Short Title	Extent of Repeal
The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (NI 11)	In Article 15(8)—
	(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;
	(b) the words “trustee under the deed,”.
	In Article 40(4)—
	(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;
	(b) the words “trustee under the deed,”.
	In Article 66(7)—
	(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;
	(b) the words “trustee under the deed,”.
	In Article 86(7)—
	(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;
	(b) the words “trustee under the deed,”.
In Article 114(7)—	
(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;	
(b) the words “trustee under the deed,”.	
In Article 143(5)—	
(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;	
(b) the words “trustee under the deed”.	
In Article 160(7)—	

Short Title	Extent of Repeal
The Insolvency (Northern Ireland) Order 1989 (NI 19)	<p>(a) in sub-paragraph (a), the words from “or becomes” to “creditors,”;</p> <p>(b) the words “trustee under the deed,”.</p> <p>In Article 2(2), in the definition of “prescribed”, the words “, 212(h) and 222”.</p> <p>Article 3(2)(b).</p> <p>In Article 4(5)(a), the words “(other than Chapter 1 of Part 8)”.</p> <p>In Article 5(1), the definition of “nominee”.</p> <p>In Article 9(1), the definitions of “creditors generally”, “deed of arrangement”, “nominee” and “the registrar”.</p> <p>Article 9(3).</p> <p>In Article 14(2), the words “or authorised to act as nominee,”.</p> <p>In Article 15(4), the words “, or authorised to act as nominee,”.</p> <p>In Article 17(2), the words “or authorised to act as nominee,”.</p> <p>In Article 20(5), the words “or authorised to act as supervisor,”.</p> <p>Article 31(10).</p> <p>Article 54(2D).</p> <p>In Article 81(2)(b)(i), the words “by post”.</p> <p>In Article 84(1)(b)(i), the words “by post”.</p> <p>In Article 185(2), the words from “, and the principal” to the end.</p> <p>In Part 8, Chapter 1.</p> <p>Article 234(3).</p>

Status: This is the original version (as it was originally enacted).

Short Title	Extent of Repeal
	Article 237D(6).
	Article 253(2).
	In Article 280—
	(a) paragraph (4)(b) and the preceding “or”;
	(b) in paragraph (4) the words “or transaction”;
	(c) in paragraph (4), the words “or banker” in both places where they occur.
	In Article 343(1)—
	(a) sub-paragraph (c) and the preceding “or”;
	(b) the words “or the trustee under the deed of arrangement”.
	In Article 344, the words “(other than Chapter 1 of Part 8)”.
	Article 348(1A).
	Article 348A.
	Articles 351 to 354.
	Article 361A(2).
	In Article 362(1)(a), the entries relating to Articles 215(5) and 221(4).
	In Schedule A1—
	(a) in paragraph 38(1), the words “, or authorised to act as nominee,”;
	(b) in paragraph 41(2), the words “, or authorised to act as nominee,”;
	(c) in paragraph 43(1), the words “, or authorised to act as nominee,”;
	(d) in paragraph 49(6), the words “, or authorised to act as supervisor,”.
	In Schedule B1—
	(a) paragraph 1(2);
	(b) paragraph 100(6)(d) but not the “and” following it.
	In Part 1 of Schedule 2, paragraph 3.

Short Title	Extent of Repeal
	<p>In Part 1 of Schedule 3—</p> <p>(a) paragraph 6;</p> <p>(b) in paragraph 8, the words “or by the trustee on any person”.</p> <p>In Schedule 4, paragraph 15(b) and the preceding “and”.</p> <p>In Schedule 6, in the cross-heading preceding paragraph 6, the words “Deeds of arrangement and”.</p> <p>In Schedule 6, in paragraph 6—</p> <p>(a) the words from “for endorsement” to “Article 211 and”;</p> <p>(b) the word “other”.</p> <p>In Schedule 6, in paragraph 25(a) and (c), the words “, the trustee of a deed of arrangement”.</p> <p>In Schedule 6, in paragraph 28, the words “deeds of arrangement,”.</p> <p>In Schedule 7, the entry relating to Article 218(1).</p> <p>In Schedule 8, paragraph 17 and the preceding cross-heading.</p>
The Licensing (Northern Ireland) Order 1996 (NI 22)	<p>In Article 28(1)—</p> <p>(a) in sub-paragraph (a), the words from “or a trustee” to “creditors,”;</p> <p>(b) the words “trustee under the deed,”.</p>
The Insolvency (Northern Ireland) Order 2002 (NI 6)	Article 6(2) and (3).
The Pensions (Northern Ireland) Order 2005 (NI 1)	Article 105(2)(c).
The Insolvency (Northern Ireland) Order 2005 (NI 10)	Article 26(3).