
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART VI

MULTIPLE DEBT, INSOLVENCY AND WINDING-UP

Bankruptcy and winding-up

Effect of bankruptcy or winding-up on enforcement

88.—(1) Subject to paragraph (2)^[F1] of this Article, Articles 106 and 258 of the Insolvency (Northern Ireland) Order 1989 (restrictions on proceedings and remedies)] and, generally, to the following provisions of this Part, a creditor who has obtained a money judgment against a debtor who is subsequently adjudged bankrupt or, being a company, is subsequently wound up under the^[F1] Insolvency (Northern Ireland) Order 1989] shall be entitled—

- (a) ^[F1]as against the official receiver or trustee of the bankrupt's estate] (“the trustee”), as the case may require;
- (b) as against the liquidator in the winding-up of the company (“the liquidator”);

to any money paid by or on behalf of the debtor either to avoid enforcement of the judgment or in full or part satisfaction thereof, or to any proceeds of the enforcement, including any charge on the property of the debtor.

(2) A creditor shall be entitled to any such money or proceeds as are referred to in paragraph (1) where—

- (a) the money (being money received otherwise than as proceeds of enforcement) is paid or the enforcement producing the proceeds is completed before the date^[F1] on which the bankruptcy order is made] or, as the case may be, the date on which the winding-up is under the^[F1] Insolvency (Northern Ireland) Order 1989] deemed to commence; and
- (b) within 21 days after the receipt of the money or, as the case may be, the completion of the enforcement, the creditor or the Office—
 - (i) has not received notice of the^[F1] making of the bankruptcy order] or of a bankruptcy petition^[F1] presented] by or against the debtor or, as the case may require, has not received notice of the presentation of a petition for the winding-up of the company or of the calling of a meeting at which a resolution for the voluntary winding-up of the company is to be proposed; or
 - (ii) has received a notice of such a bankruptcy petition but^[F1] a bankruptcy order] is not at any time made on foot thereof or, as the case may require, has received a notice of the presentation of such a winding-up petition or of the calling of such a meeting but a winding-up order is not at any time made or a resolution for voluntary winding-up is not at any time passed as a result of that petition or, as the case may be, the resolution so proposed.

(3) Save as provided by this Article,^[F1] and Article 90(3A), the official receiver] or the trustee or the liquidator, as the case may be, shall be entitled as against the creditor to such money or proceeds as are referred to in paragraph (1)^[F1] and, subject to paragraph (3A), that money and proceeds shall be comprised in the bankrupt's estate].

^[F1](3A) The rights conferred by this Article on the official receiver, the trustee or the liquidator may, to such extent and on such terms as it thinks fit, be set aside by the High Court in favour of the creditor.]

(4) Where an administration order has been made, this Article applies to the persons whose names have been scheduled to the order and to money paid to the Office under the order as it applies to a creditor and to proceeds of enforcement.

F1 1989 NI 19

Modifications etc. (not altering text)

C1 Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), 12)

Completion of enforcement in relation to bankruptcy and winding-up

89. For the purposes of Article 88, enforcement shall be deemed to be completed in relation to—

- (a) money paid to a creditor under an instalment order under Article 30 or Article 107(3), upon receipt of any such payment by the creditor;
- (b) seizure pursuant to an order of seizure under Article 31 or to an authorisation under Article 43, at the date of the sale of the property seized;
- (c) an order charging funds, stock or shares under Article 58, upon the service of a copy of the order on the registrar, authority, undertaking or company (as the case may be) under Article 59;
- (d) a vesting order for funds, stock or shares under Article 60, upon the service of a copy of the order on the registrar, authority, undertaking or company (as the case may be) under paragraph (2)(a) of that Article;
- (e) money paid under a debenture order under Article 61, upon receipt of any such payment by the creditor;
- (f) a partnership order, upon the making of the order;
- (g) money paid to a receiver under an order appointing a receiver under Article 67, upon receipt of any such payment by the receiver;
- (h) an attachment of debts order under Article 69, upon the receipt by the Office of any payment made by the garnishee or upon the making of an order for payment pursuant to Article 70(1), whichever first occurs;
- (i) money paid to the Office under an attachment of earnings order under Article 73, upon receipt of any such payment by the Office;
- (j) money paid to the Office under an administration order, upon receipt of any such payment by the Office; and
- (k) money directed to be paid to a receiver or other person by an order made under section 27 of the Crown Proceedings Act 1947, upon receipt of any such payment by the receiver or other person.

Modifications etc. (not altering text)

- C1** Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), 12)

Functions of Office as to proceeds of enforcement, etc.

90.—(1) Without prejudice to Article 88 but subject to Article 91, the Office shall hold any money received to avoid enforcement, or in full or part satisfaction of the enforcement, or as proceeds of the enforcement, for 21 days after—

- (a) the receipt of the money (being money received otherwise than as proceeds of enforcement); or
- (b) the completion of the enforcement;

and if, within that period—

- (i) notice is served upon the Office of a bankruptcy petition^[F2 presented] by or against the debtor, or, where the debtor is a company, of the presentation of a petition of the winding-up of the company or of the calling of a meeting at which a resolution for the voluntary winding-up of the company is to be proposed, the money shall be held by the Office pending the disposal of any such petition or the outcome of the resolution so proposed, as the case may be;
- (ii) notice is served upon the Office of^[F2 a bankruptcy order] against the debtor, the money shall be paid to the^[F2 official receiver] or, as the case may be, the trustee.

(2) If, as a result of the disposal of any such petition or the outcome of any such resolution as is referred in paragraph (1)(i)—

- (a) ^[F2 a bankruptcy order] is made against the debtor, the money shall be paid to the^[F2 official receiver] or, as the case may be, the trustee;
- (b) where the debtor is a company, a winding-up order is made or a resolution for the winding-up of the company is passed, as the case may be, the money shall be paid to the liquidator;

but if such an order is not made or such a resolution is not passed, as the case may be, the money shall be dealt with as if no such notice as is referred to in paragraph (1) had been served.

(3) Where—

- (a) a debtor is adjudged bankrupt or where a provisional liquidator is appointed or a winding-up order is made or a resolution for voluntary winding-up is passed in respect of a debtor being a company; and
- (b) any money or other property of the debtor is under seizure pursuant to an order of seizure under Article 31 or an authorisation under Article 43;

the money or property shall on demand by the^[F2 official receiver], trustee or liquidator, as the case may be, be paid or delivered by the Office or any person having custody thereof to the person making the demand^[F2] and subject to paragraph (3A), that money or property shall be comprised in the bankrupt's estate].

^[F2(3A)] The rights conferred by this Article on the official receiver, the trustee or the liquidator may, to such extent and on such terms as it thinks fit, be set aside by the High Court in favour of the creditor.

(3B) Paragraph (1)(ii), (2)(a) or (3) shall not apply in relation to money or other property which has been acquired by or has devolved upon the debtor since the making of a bankruptcy order against him unless—

- (a) at the time the money is received or, as the case may be, the money or property is seized; or
- (b) before completion of the enforcement;

the money or other property has been or is claimed for the bankrupt's estate under Article 280 of the Insolvency (Northern Ireland) Order 1989 (after#acquired property) and a copy of the notice given under that Article has been or is served upon the Office.]

(4) For the purposes of this Article money paid to the Office under an administration order shall be treated as proceeds of enforcement.

F2 1989 NI 19

Modifications etc. (not altering text)

- C1** Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **12**)

Retention by Office of money or property pending result of interpleader

91. Where, but for this Article, the Office would be required to pay or deliver any money or property to the^[F3] official receiver], trustee or liquidator under Article 90 and an application is pending under Article 44 in relation to that money or property, the money or property shall be held by the Office until that application has been finally determined.

F3 1989 NI 19

Modifications etc. (not altering text)

- C1** Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **12**)

Charge in respect of costs and expenses of enforcement

92. Where, pursuant to this Part, money or property is paid or delivered to the^[F4] official receiver] or trustee, or, where the debtor is a company, to the liquidator, such costs and expenses of enforcement as may be approved by the Office shall be a first charge on the money or property so paid or delivered; and the^[F4] official receiver] or trustee or, as the case may be, the liquidator may realise the property or an adequate part thereof for the purpose of satisfying the charge.

F4 1989 NI 19

Modifications etc. (not altering text)

- C1** Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **12**)

Special provisions as to charges on land

93. A charge on land under Article 46 shall be void as against^{F5}. . . the trustee or, where the debtor is a company, as against the liquidator if within 28 days after the date of registration of the order charging the land, or of any notice thereof, or of the charge, as the case may be—

- (a) the debtor is adjudged bankrupt or notice is served on the creditor of a bankruptcy petition^{F5} presented] by or against the debtor and^{F5} a bankruptcy order] is at any time made on foot thereof; or
- (b) where the debtor is a company—
 - (i) a winding-up order is made or a resolution is passed for the winding-up of the company; or
 - (ii) notice is served on the creditor of the presentation of a petition for the winding-up of the company or of the calling of a meeting at which a resolution for the voluntary winding-up of the company is to be proposed, and a winding-up order is at any time made or a resolution for the voluntary winding-up of the company is at any time passed as a result of that petition or, as the case may be, the resolution so proposed.

F5 1989 NI 19

Modifications etc. (not altering text)

C1 Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), 12)

Effect of bankruptcy and winding-up on certain orders

94.—(1) An instalment order under Article 30 or a restraining order under Article 66 shall cease to have effect where the debtor is adjudged bankrupt or, where the debtor is a company, upon an order being made or a resolution passed for the winding-up of the company.

(2) An attachment of earnings order under Article 73 shall cease to have effect upon the debtor being adjudged bankrupt.

(3) Nothing in this Article shall make any person liable for anything done or omitted to be done by him in pursuance or purported pursuance of a restraining order or an attachment of earnings order unless and until he has received notice that the order has ceased to have effect by virtue of this Article.

Modifications etc. (not altering text)

C1 Arts. 88-94 applied (with modifications) (4.1.2024) by S.I. 2021/716, reg. 37A(3) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), 12)

Changes to legislation:

There are currently no known outstanding effects for the Judgments Enforcement (Northern Ireland) Order 1981, Bankruptcy and winding-up.