
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART IX

BANKRUPTCY

CHAPTER I

BANKRUPTCY PETITIONS; BANKRUPTCY ORDERS

Commencement and duration of bankruptcy; discharge

Commencement and continuance

- 252.** The bankruptcy of an individual against whom a bankruptcy order has been made—
- (a) commences with the day on which the order is made, and
 - (b) continues until the individual is discharged under the following provisions of this Chapter.

[^{F1}Duration

253.—(1) A bankrupt is discharged from bankruptcy at the end of the period of one year beginning with the date on which the bankruptcy commences.

^{F2}(2)

(3) On the application of the official receiver or the trustee of a bankrupt's estate, the High Court may order that the period specified in paragraph (1) shall cease to run until—

- (a) the end of a specified period, or
- (b) the fulfilment of a specified condition.

(4) The High Court may make an order under paragraph (3) only if satisfied that the bankrupt has failed or is failing to comply with an obligation under this Part.

(5) In paragraph (3)(b) “condition” includes a condition requiring that the High Court be satisfied of something.

- (6) This Article is without prejudice to any power of the High Court to annul a bankruptcy order.
- (7) Nothing in this Article applies to a bankrupt who is a solicitor.]

F1 Art. 253 substituted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 12(1) (with art. 4, Sch. 4 paras. 3-5); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**)

F2 Art. 253(2) repealed (4.11.2020) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\)](#), ss. 12, 28(2), **Sch. 4**; S.R. 2020/236, art. 2(b)(c) (with art. 3)

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Commencement and duration of bankruptcy; discharge is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Modifications etc. (not altering text)

C1 Art. 253 excluded (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 12(3), Sch. 4 para. 3 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

[^{F3}Discharge where bankrupt is a solicitor]

254.—[^{F4}(1) A bankrupt who is a solicitor is discharged from bankruptcy by an order of the High Court under this Article.

(1A) An application for an order under this Article may be made at any time.]

(2) On an application under this Article the High Court may—

- (a) refuse to discharge the bankrupt from bankruptcy,
- (b) make an order discharging him absolutely, or
- (c) make an order discharging him subject to such conditions with respect to any income which may subsequently become due to him, or with respect to property devolving upon him, or acquired by him, after his discharge, as may be specified in the order.

(3) The High Court may provide for an order falling within paragraph (2)(b) or (c) to have immediate effect or to have its effect suspended for such period, or until the fulfilment of such conditions (including a condition requiring the Court to be satisfied as to any matter), as may be specified in the order.

F3 Art. 254 heading substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 12(2)(a) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

F4 Art. 254(1)(1A) substituted (27.3.2006) for art. 254(1) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 12(2)(b) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

Effect of discharge

255.—(1) Subject to the following provisions of this Article, where a bankrupt is discharged, the discharge releases him from all the bankruptcy debts, but has no effect—

- (a) on the functions (so far as they remain to be carried out) of the trustee of his estate, or
- (b) on the operation, for the purposes of the carrying out of those functions, of the provisions of this Part;

and, in particular, discharge does not affect the right of any creditor of the bankrupt to prove in the bankruptcy for any debt from which the bankrupt is released.

(2) Discharge does not affect the right of any secured creditor of the bankrupt to enforce his security for the payment of a debt from which the bankrupt is released.

(3) Discharge does not release the bankrupt from any bankruptcy debt which he incurred in respect of, or forbearance in respect of which was secured by means of, any fraud or fraudulent breach of trust to which he was a party.

(4) Discharge does not release the bankrupt from any liability in respect of a fine imposed for an offence or from any liability under a recognisance except, in the case of a penalty imposed for an offence under a statutory provision relating to the public revenue or of a recognisance, with the consent of the Treasury.

[^{F5}(4A) In paragraph (4) the reference to a fine includes a reference to a confiscation order under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.]

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(5) Discharge does not, except to such extent and on such conditions as the High Court may direct, release the bankrupt from any bankruptcy debt which—

(a) consists in a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, or to pay damages by virtue of Part II of the Consumer Protection (Northern Ireland) Order 1987^{F6}, being in either case damages in respect of personal injuries to any person, or

(b) arises under any order made in family proceedings or in domestic proceedings^{F7} or under a maintenance assessment made under the Child Support (Northern Ireland) Order 1991].

(6) Discharge does not release the bankrupt from such other bankruptcy debts, not being debts provable in his bankruptcy, as are prescribed.

(7) Discharge does not release any person other than the bankrupt from any liability (whether as partner or co-trustee of the bankrupt or otherwise) from which the bankrupt is released by the discharge, or from any liability as surety for the bankrupt or as a person in the nature of such a surety.

(8) In this Article—

“domestic proceedings” means domestic proceedings within the meaning of the Magistrates' Courts (Northern Ireland) Order 1981^{F8};

[^{F9}“family proceedings” has the meaning given by Article 12(5) of the Family Law (Northern Ireland) Order 1993;]

“fine” includes any pecuniary penalty, pecuniary forfeiture or pecuniary compensation payable on a conviction; and

“personal injuries” includes death and any disease or other impairment of a person's physical or mental condition.

F5 2002 c. 29

F6 1987 NI 20

F7 1991 NI 23

F8 1981 NI 26

F9 1995 NI 2

[^{F10} **Post-discharge restrictions**

255A. Schedule 2A (bankruptcy restrictions order and bankruptcy restrictions undertaking) shall have effect.]

F10 Art. 255A inserted (27.3.2006) by *Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))*, arts. 1(3), 13(1) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2-7**)

Power of High Court to annul bankruptcy order

256.—(1) The High Court may annul a bankruptcy order if it at any time appears to the Court—

(a) that, on any grounds existing at the time the order was made, the order ought not to have been made, or

(b) that, to the extent required by the rules, the bankruptcy debts and the expenses of the bankruptcy have all, since the making of the order, been either paid or secured for to the satisfaction of the Court.

(2) The High Court may annul a bankruptcy order whether or not the bankrupt has been discharged from the bankruptcy.

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(3) ^{F11}

(4) Where the High Court annuls a bankruptcy order (whether under this Article or under Article 235^{F12} or 237D)—

- (a) any sale or other disposition of property, payment made or other thing duly done, under any provision in Parts VIII to X, by or under the authority of the official receiver or a trustee of the bankrupt's estate or by the Court is valid, but
- (b) if any of the bankrupt's estate is then vested, under any such provision, in such a trustee, it shall vest in such person as the Court may appoint or, in default of any such appointment, revert to the bankrupt on such terms (if any) as the Court may direct;

and the Court may include in its order such supplemental provisions as may be authorised by the rules.

(5) ^{F13}

<p>F11 Art. 256(3) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, 31, Sch. 8 para. 6(a), Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)</p> <p>F12 Words in art. 256(4) inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, Sch. 8 para. 6(b) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)</p> <p>F13 Art. 256(5) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 25, 31, Sch. 8 para. 6(c), Sch. 9 (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)</p>
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Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s. 23 Sch. 5 Pt.1 Ch. 3 para. 40](#)
- Instrument amended (prosp) by [S.I. 1994/279 \(N.I.\) art. 26\(1\)Sch. 2 para. 15](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 9 Pt. 2 para. 66 revoked by [1996 c. 23 s. 107\(2\)Sch. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov.uk](#))
- art. 2B inserted by [2016 c. 2 \(N.I.\) s. 2\(1\)](#)
- art. 208ZA applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZA is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 208ZA-208ZB inserted by [2016 c. 2 \(N.I.\) s. 1\(1\)](#)
- art. 208ZB applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by [S.I. 2023/1399 reg. 12](#) (This amendment not applied to [Legislation.gov.uk](#). S. 208ZB is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 345A-345B inserted by [2016 c. 2 \(N.I.\) s. 1\(2\)](#)