

STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART V

WINDING UP OF COMPANIES REGISTERED UNDER [^{F1}the Companies Act 2006]

CHAPTER VIII

PROVISIONS OF GENERAL APPLICATION IN WINDING UP

Miscellaneous matters

Rescission of contracts by the High Court

157.—(1) The High Court may, on the application of a person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Court thinks just.

(2) Any damages payable under the order to such a person may be proved by him as a debt in the winding up.

Modifications etc. (not altering text)

- C1** Pts. 1-5 applied (with modifications) (4.1.2024) by [S.I. 2021/716, Sch. 1A para. 3](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023](#) (S.I. 2023/1399), reg. 1(2), [Sch. 1](#))
- C2** [Art. 157](#) applied (with modifications) (4.1.2024) by [S.I. 2021/716, reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023](#) (S.I. 2023/1399), regs. 1(2), [12](#))

Power to make over assets to employees

^{F1}**158.**—(1) On the winding up of a company (whether by the High Court or voluntarily), the liquidator may, subject to the provisions of this Article, make any payment which the company has, before the commencement of the winding up, decided to make under [^{F2}section 247 of the Companies Act 2006] (power to provide for employees or former employees on cessation or transfer of business).

[^{F3}(2) The liquidator may, after the winding up has commenced, make any such provision as is mentioned in section 247(1) if—

- (a) the company's liabilities have been fully satisfied and provision has been made for the expenses of the winding up,
- (b) the exercise of the power has been sanctioned by a resolution of the company, and

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(c) any requirements of the company's [^{F4}articles] as to the exercise of the power conferred by section 247(1) are complied with.]

(3) Any payment which may be made by a company under this Article (that is, a payment after the commencement of its winding up) may be made out of the company's assets which are available to the members on the winding up.

(4) On a winding up by the High Court, the exercise by the liquidator of his powers under this Article is subject to the Court's control, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of the power.

(5) Paragraphs (1) and (2) have effect notwithstanding anything in any rule of law or in Article 93 of this Order (property of company after satisfaction of liabilities to be distributed among members).

F1 mod. by SR 2004/307

F2 Words in art. 158(1) substituted (1.10.2007) by Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), arts. 1(3)(a), 10(1), **Sch. 4 para. 61(2)** (with art. 12)

F3 Art. 158(2) substituted (1.10.2007) by Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), arts. 1(3)(a), 10(1), **Sch. 4 para. 61(3)** (with art. 12)

F4 Word in art. 158(2)(c) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), arts. 2(1), 8, **Sch. 1 para. 111(22)** (with art. 10)

Modifications etc. (not altering text)

C3 Art. 158 applied (with modifications) (4.1.2024) by S.I. 2021/716, **reg. 37A** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **12**)

C4 Art. 158 applied (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 1A para. 3** (as inserted by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), reg. 1(2), **Sch. 1**)

Notification that company is in liquidation

159.—[^{F5}(1) When a company is being wound up, whether by the High Court or voluntarily—

(a) every invoice, order for goods [^{F6}or services], business letter or order form (whether in hard copy, electronic or any other form) issued by or on behalf of the company, or a liquidator of the company or a receiver or manager of the company's property, ^{F7}. . . and

(b) all the company's websites,

must contain a statement that the company is being wound up.]

(2) If default is made in complying with this Article, the company and any of the following persons who knowingly and wilfully authorises or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, shall be guilty of an offence.

F5 Art. 159(1) substituted (1.1.2007) by Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 (S.I. 2006/3429), **reg. 7(2)**

F6 Words in art. 159(1)(a) inserted (1.10.2008) by Companies (Trading Disclosures) (Insolvency) Regulations 2008 (S.I. 2008/1897), **reg. 5(2)(a)**

F7 Words in art. 159(1)(a) omitted (1.10.2008) by virtue of Companies (Trading Disclosures) (Insolvency) Regulations 2008 (S.I. 2008/1897), **reg. 5(2)(b)**

Interest on debts

160.—(1) In a winding up interest is payable in accordance with this Article on any debt proved in the winding up, including so much of any such debt as represents interest on the remainder.

(2) Any surplus remaining after the payment of the debts proved in a winding up shall, before being applied for any other purpose, be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the company went into liquidation.

(3) All interest under this Article ranks equally, whether or not the debts on which it is payable rank equally.

(4) The rate of interest payable under this Article in respect of any debt (“the official rate”) is whichever is the greater of—

- (a) the rate applicable to a money judgment of the High Court on the day on which the company went into liquidation, and
- (b) the rate applicable to that debt apart from the winding up.

Company's books to be evidence

161. Where a company is being wound up, all books and papers of the company and of the liquidators are, as between the contributories of the company, prima facie evidence of the truth of all matters purporting to be recorded in them.

Information as to pending liquidations

162.—(1) If the winding up of a company is not concluded within one year from its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in, and position of, the liquidation.

(2) If a liquidator contravenes this Article, he shall be guilty of an offence and for continued contravention, he shall be guilty of a continuing offence.

Resolutions passed at adjourned meetings

^{F8}**163.** Where a resolution is passed at an adjourned meeting of a company's creditors or contributories, the resolution is treated for all purposes as having been passed on the date on which it was in fact passed, and not as having been passed on any earlier date.

F8 mod. by SR 2004/307

Modifications etc. (not altering text)

- C5** [Art. 163](#) applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [reg. 37A](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023](#) (S.I. 2023/1399), [regs. 1\(2\)](#), [12](#))
- C6** [Art. 163](#) applied (with modifications) (4.1.2024) by [S.I. 2021/716](#), [Sch. 1A para. 3](#) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023](#) (S.I. 2023/1399), [reg. 1\(2\)](#), [Sch. 1](#))

Meeting to ascertain wishes of creditors or contributories

164.—(1) The High Court may—

- (a) as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories (as proved to it by any sufficient evidence), and

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- (b) if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs, and appoint a person to act as chairman of any such meeting and report the result of it to the Court.
- (2) In the case of creditors, regard shall be had to the value of each creditor's debt.
- (3)^{F9} In the case of contributories, regard shall be had to the number of votes conferred on each contributory^{F10}

F9 mod. by SR 2004/307

F10 Words in [art. 164\(3\)](#) omitted (1.10.2009) by virtue of [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 2(1), 8, [Sch. 1 para. 111\(23\)](#) (with [art. 10](#))

Affidavits, etc., in United Kingdom and elsewhere

165.—(1) An affidavit required to be sworn under or for the purposes of this Part may be sworn in Northern Ireland before any court, judge or person lawfully authorised to take and receive affidavits, and shall, if sworn in Great Britain or elsewhere in Her Majesty's dominions before any court, judge or person lawfully authorised to take and receive affidavits, or before any of Her Majesty's consuls or vice#consuls in any place outside Her Majesty's dominions, be treated as an affidavit sworn under or for the purposes of this Part.

(2) All courts, judges,^{F11} lay magistrates], commissioners and persons acting judicially shall take judicial notice of the seal or stamp or signature (as the case may be) of any such court, judge, person, consul or vice#consul attached, appended or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part.

F11 [2002 c. 26](#)

Changes to legislation:

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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\(2\)](#)