
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART XII

INSOLVENCY PRACTITIONERS AND THEIR QUALIFICATION

The requisite qualification, and the means of obtaining it

Persons not qualified to act as insolvency practitioners

349.—(1) A person who is not an individual is not qualified to act as an insolvency practitioner.

[^{F1}(2) A person is not qualified to act as an insolvency practitioner at any time unless at that time the person is appropriately authorised under Article 349A of this Order.]

(3) A person is not qualified to act as an insolvency practitioner in relation to another person at any time unless—

- (a) there is in force at that time security, and
- (b) that security meets the prescribed requirements with respect to his so acting in relation to that other person.

(4) A person is not qualified to act as an insolvency practitioner at any time if at that time—

- (a) he has been adjudged bankrupt [^{F2}under this Order or the 1986 Act] or sequestration of his estate has been awarded and (in either case) he has not been discharged,

[^{F3}(aa) a moratorium period under a debt relief order [^{F4}under this Order or the 1986 Act] applies in relation to him,]

[^{F5}(b) he is subject to a disqualification order made or a disqualification undertaking accepted under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002, or]

- (c) he is a patient within the meaning of Part VII of the Mental Health Act 1983^{F6}, section 125(1) of the Mental Health (Scotland) Act 1984^{F7} or Part VIII of the Mental Health (Northern Ireland) Order 1986^{F8}.

[^{F9}(5) A person is not qualified to act as an insolvency practitioner while there is in force in respect of that person—

- (a) a bankruptcy restrictions order under this Order, the 1986 Act or the Bankruptcy (Scotland) Act 1985 [^{F10}or 2016], or
- (b) a debt relief restrictions order under this Order or the 1986 Act.

(6) In this Article “the 1986 Act” means the Insolvency Act 1986.]

F1 [Art. 349\(2\)](#) substituted (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\)](#), [ss. 14\(2\)](#), [28\(2\)](#); [S.R. 2016/203](#), [art. 2](#)

Changes to legislation: *The Insolvency (Northern Ireland) Order 1989, Cross Heading: The requisite qualification, and the means of obtaining it is up to date with all changes known to be in force on or before 18 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*

- F2** Words in art. 349(4)(a) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 116\(2\)\(a\)](#), 164(1); S.I. 2015/1689, reg. 2(i) (with Sch. para. 14)
- F3** Art. 349(4)(aa) inserted (30.6.2011) by [Debt Relief Act \(Northern Ireland\) 2010 \(c. 16\), ss. 6, 7\(1\), Sch. para. 4\(9\)\(a\)](#); S.R. 2011/13, [art. 2](#)
- F4** Words in art. 349(4)(aa) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 116\(2\)\(b\)](#), 164(1); S.I. 2015/1689, reg. 2(i) (with Sch. para. 14)
- F5** 2002 NI 4
- F6** 1983 c. 20
- F7** 1984 c. 36
- F8** 1986 NI 4
- F9** Art. 349(5)(6) substituted for art. 349(5) (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 116\(3\)](#), 164(1); S.I. 2015/1689, reg. 2(i) (with Sch. para. 14)
- F10** Words in art. 349(5)(a) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\), art. 1, Sch. 1 para. 37\(3\)](#)

Modifications etc. (not altering text)

- C1** [Arts. 349-350T](#) 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](#))

[F11] Authorisation

349A.—(1) In this Part—

“partial authorisation” means authorisation to act as an insolvency practitioner—

- (a) only in relation to companies, or
- (b) only in relation to individuals;

“full authorisation” means authorisation to act as an insolvency practitioner in relation to companies, individuals and insolvent partnerships;

“partially authorised” and “fully authorised” are to be construed accordingly.

(2) A person is fully authorised under this Article to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350(1) and being permitted to act as an insolvency practitioner for all purposes by or under the rules of that body.

(3) A person is partially authorised under this Article to act as an insolvency practitioner—

- (a) by virtue of being a member of a professional body recognised under Article 350(1) and being permitted to act as an insolvency practitioner in relation only to companies or only to individuals by or under the rules of that body, or
- (b) by virtue of being a member of a professional body recognised under Article 350(2) and being permitted to act as an insolvency practitioner by or under the rules of that body.

- F11** [Arts. 349A-349B](#) inserted (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\), ss. 14\(3\)](#), 28(2); S.R. 2016/203, [art. 2](#)

Modifications etc. (not altering text)

- C1** [Arts. 349-350T](#) 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](#))

Partial authorisation: acting in relation to partnerships

349B.—(1) A person who is partially authorised to act as an insolvency practitioner in relation to companies may nonetheless not accept an appointment to act in relation to a company if at the time of the appointment the person is aware that the company—

- (a) is or was a member of a partnership; and
- (b) has outstanding liabilities in relation to the partnership.

(2) A person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not accept an appointment to act in relation to an individual if at the time of the appointment the person is aware that the individual—

- (a) is or was a member of a partnership other than a Scottish partnership, and
- (b) has outstanding liabilities in relation to the partnership.

(3) Subject to paragraph (9), a person who is partially authorised to act as an insolvency practitioner in relation to companies may nonetheless not continue to act in relation to a company if the person becomes aware that the company—

- (a) is or was a member of a partnership, and
- (b) has outstanding liabilities in relation to the partnership,

unless the person is granted permission to continue to act by the High Court.

(4) Subject to paragraph (9), a person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not continue to act in relation to an individual if the person becomes aware that the individual—

- (a) is or was a member of a partnership other than a Scottish partnership, and
- (b) has outstanding liabilities in relation to the partnership,

unless the person is granted permission to continue to act by the High Court.

(5) The High Court may grant a person permission to continue to act for the purposes of paragraph (3) or (4) if it is satisfied that the person is competent to do so.

(6) A person who is partially authorised and becomes aware as mentioned in paragraph (3) or (4) may alternatively apply to the High Court for an order (a “ replacement order ”) appointing in his or her place a person who is fully authorised to act as an insolvency practitioner in relation to the company or (as the case may be) the individual.

(7) A person may apply to the High Court for permission to continue to act or for a replacement order under—

- (a) where acting in relation to a company, this Article or, if it applies, Article 143(5B);
- (b) where acting in relation to an individual, this Article or, if it applies, Article 276(2C).

(8) A person who acts as an insolvency practitioner in contravention of any of paragraphs (1) to (4) is guilty of an offence under Article 348 (acting without qualification).

(9) A person does not contravene paragraph (3) or (4) by continuing to act as an insolvency practitioner during the permitted period if, within the period of 7 business days beginning with the day after the day on which the person becomes aware as mentioned in the paragraph, the person—

- (a) applies to the High Court for permission to continue to act, or
- (b) applies to the High Court for a replacement order.

(10) For the purposes of paragraph (9)—

“business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971;

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“permitted period” means the period beginning with the day on which the person became aware as mentioned in paragraph (3) or (4) and ending on the earlier of—

- (a) the expiry of the period of 6 weeks beginning with the day on which the person applies to the High Court as mentioned in paragraph (9)(a) or (b), and
- (b) the day on which the High Court disposes of the application (by granting or refusing it “replacement order” has the meaning given by paragraph (6).]

F11 Arts. 349A-349B inserted (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\), ss. 14\(3\), 28\(2\); S.R. 2016/203, art. 2](#)

Modifications etc. (not altering text)

C1 Arts. 349-350T 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](#))

[^{F12}Recognised professional bodies

350.—(1) The Department may by order, if satisfied that a body meets the requirements of paragraph (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.

(2) The Department may by order, if satisfied that a body meets the requirements of paragraph (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (as to which, see Article 349A(1)).

(3) Article 350A makes provision about the making by a body of an application to the Department for an order under this Article.

(4) The requirements are that—

- (a) the body regulates (or is going to regulate) the practice of a profession;
- (b) the body has rules which it is going to maintain and enforce for securing that its insolvency specialist members—
 - (i) are fit and proper persons to act as insolvency practitioners; and
 - (ii) meet acceptable requirements as to education and practical training and experience; and
- (c) the body's rules and practices for or in connection with authorising persons to act as insolvency practitioners, and its rules and practices for or in connection with regulating persons acting as such, are designed to ensure that the regulatory objectives are met (as to which, see Article 350C).

(5) An order of the Department under this Article has effect from such date as is specified in the order.

(6) An order under this Article may be revoked by an order under Article 350L or 350N (and see Article 361A(1)(b)).

(7) In this Part—

- (a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question;
- (b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.

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(8) A reference in this Part to a recognised professional body is to a body recognised under this Article (and see Articles 350L(6) and 350N(5)).]

F12 Arts. 350-350A substituted for art. 350 (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\), ss. 14\(4\), 28\(2\); S.R. 2016/203, art. 2](#)

Modifications etc. (not altering text)

C1 Arts. 349-350T 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](#))

[^{F12}Application for recognition as recognised professional body

350A.—(1) An application for an order under Article 350(1) or (2) must—

- (a) be made to the Department in such form and manner as the Department may require;
- (b) be accompanied by such information as the Department may require;
- (c) be supplemented by such additional information as the Department may require at any time between receiving the application and determining it.

(2) The requirements which may be imposed under paragraph (1) may differ as between different applications.

(3) The Department may require information provided under this Article to be in such form, and verified in such manner, as the Department may specify.

(4) An application for an order under Article 350(1) or (2) must be accompanied by—

- (a) a copy of the applicant's rules;
- (b) a copy of the applicant's policies and practices; and
- (c) a copy of any guidance issued by the applicant in writing.

(5) The reference in paragraph (4)(c) to guidance issued by the applicant is a reference to guidance or recommendations which are—

- (a) issued or made by it which will apply to its insolvency specialist members or to persons seeking to become such members;
- (b) relevant for the purposes of this Part; and
- (c) intended to have continuing effect,

including guidance or recommendations relating to the admission or expulsion of members.

(6) The Department may refuse an application for an order under Article 350(1) or (2) if the Department considers that recognition of the body concerned is unnecessary having regard to the existence of one or more other bodies which have been or are likely to be recognised under Article 350.

(7) Paragraph (8) applies where the Department refuses an application for an order under Article 350(1) or (2); and it applies regardless of whether the application is refused on the ground mentioned in paragraph (6), because the Department is not satisfied as mentioned in Article 350(1) or (2) or because a fee has not been paid (see Article 361A(1)(b)).

(8) The Department must give the applicant a written notice of the Department's decision; and the notice must set out the reasons for refusing the application.]

F12 Arts. 350-350A substituted for art. 350 (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\), ss. 14\(4\), 28\(2\); S.R. 2016/203, art. 2](#)

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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\(2\)](#)