

SCHEDULES

SCHEDULE 5

Article 359.

PROVISIONS CAPABLE OF INCLUSION IN COMPANY INSOLVENCY RULES

High Court

1.—^[F1](1) Provision for regulating the practice and procedure of the High Court so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies, being any provision that could be made by rules of court.

^[F2](2) Rules made by virtue of this paragraph about the consequence of failure to comply with practice or procedure may, in particular, include provision about the termination of administration.]

F1 Sch. 5 para. 1 renumbered (27.3.2006) as sub - para. (1) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

F2 Sch. 5 para. 1(2) added (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(2) (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2 - 7**)

2. Provision conferring rights of audience, in the High Court so far as relating to, and to matters connected with or arising out of, the insolvency or winding up of companies, on the official receiver.

Notices, etc.

3. Provision requiring notice of any proceedings in connection with or arising out of the insolvency or winding up of a company to be given or published in the prescribed manner.

4. Provision with respect to the form, manner of serving, contents and proof of any petition, application, order, notice, statement or other document required to be presented, made, given, published or prepared under any statutory provision relating to, or to matters connected with or arising out of, the insolvency or winding up of companies.

5. Provision specifying the persons to whom any notice is to be given.

Registration of voluntary arrangements

6. Provision for the registration of voluntary arrangements approved under Part II, including provision for the keeping and inspection of a register.

Provisional liquidator

7. Provision as to the manner in which a provisional liquidator appointed under Article 115 is to carry out his functions.

Conduct of insolvency

8. Provision with respect to the certification of any person as, and as to the proof that a person is, ^[F3]the monitor in relation to a moratorium under Part 1A or] the liquidator, administrator or administrative receiver of a company.

Changes to legislation: *The Insolvency (Northern Ireland) Order 1989, SCHEDULE 5 is up to date with all changes known to be in force on or before 11 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*

F3 Words in [Sch. 5 para. 8](#) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 7 para. 28\(2\)](#) (with ss. 2(2), 5(2))

9. The following provision with respect to meetings of a company's creditors, contributories or members—

- (a) provision as to the manner of summoning a meeting (including provision as to how any power to require a meeting is to be exercised, provision as to the manner of determining the value of any debt or contribution for the purposes of any such power and provision making the exercise of any such power subject to the deposit of a sum sufficient to cover the expenses likely to be incurred in summoning and holding a meeting);
- (b) provision specifying the time and place at which a meeting may be held and the period of notice required for a meeting;
- (c) provision as to the procedure to be followed at a meeting (including the manner in which decisions may be reached by a meeting and the manner in which the value of any vote at a meeting is to be determined);
- (d) provision for requiring a person who is or has been an officer of the company to attend a meeting;
- (e) provision creating, in the prescribed circumstances, a presumption that a meeting has been duly summoned and held;
- (f) provision as to the manner of proving the decisions of a meeting.

10.—(1) Provision as to the functions, membership and proceedings of a committee established under^{F4} Article 59, 87 or 120, or paragraph 58 of Schedule B1].

(2) The following provision with respect to the establishment of a committee under Article 87 or 120, that is to say—

- (a) provision for resolving differences between a meeting of the company's creditors and a meeting of its contributories or members;
- (b) provision authorising the establishment of the committee without a meeting of contributories in a case where a company is being wound up on grounds including its inability to pay its debts; and
- (c) provision modifying the requirements of this Order with respect to the establishment of the committee in a case where a winding#up order has been made immediately upon the discharge of an administration order.

F4 Words in [Sch. 5 para. 10\(1\)](#) substituted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), [Sch. 2 para. 46\(3\)](#) (with art. 4); [S.R. 2006/21](#), [art. 2](#) (with [S.R. 2006/22](#), [arts. 2 - 7](#))

11. Provision as to the manner in which any requirement that may be imposed on a person under any of Parts II to VII by the official receiver, the liquidator, administrator or administrative receiver of a company or a special manager appointed under Article 151 is to be so imposed.

12. Provision as to the debts that may be proved in a winding up, as to the manner and conditions of proving a debt and as to the manner and expenses of establishing the value of any debt or security.

13. Provision with respect to the manner of the distribution of the property of a company that is being wound up, including provision with respect to unclaimed funds and dividends.

14. Provision which, with or without modifications, applies in relation to the winding up of companies any provision contained in Parts VIII to X.

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[^{F5}14A. Provision about the application of Article 150A which may include, in particular—

- (a) provision enabling a receiver to institute winding up proceedings;
- (b) provision requiring a receiver to institute winding up proceedings.]

F5 Sch. 5 para. 14A inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(4) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2 - 7](#))

[^{F6}Administration]

F6 Sch. 5 para. 14B and preceding cross - heading inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(5) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2 - 7](#))

[^{F7}14B. Provision which—

- (a) applies in relation to administration, with or without modifications, a provision of Parts V to VII and any of Articles 5 to 8 in so far as that Article relates to that provision, or
- (b) serves a purpose in relation to administration similar to a purpose that may be served by the rules in relation to winding up by virtue of a provision of this Schedule.]

F7 Sch. 5 para. 14B and preceding cross - heading inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 46(5) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2 - 7](#))

Financial provisions

15. Provision as to the amount, or manner of determining the amount, payable to the liquidator, administrator or administrative receiver of a company or a special manager appointed under Article 151, by way of remuneration for the carrying out of functions in connection with or arising out of the insolvency or winding up of a company.

16. Provision with respect to the manner in which money received by the liquidator of a company in the course of carrying out his functions as such is to be paid into and out of the Insolvency Account, invested or otherwise handled and with respect to the payment of interest on sums which, in pursuance of rules made by virtue of this paragraph, have been paid into the Insolvency Account.

[^{F8}16A. Provision enabling the Department to set the rate of interest paid on sums which have been paid into the Insolvency Account.]

F8 Sch. 5 para. 16A inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 27(1) (with art. 4); S.R. 2006/21, [art. 2](#) (with S.R. 2006/22, [arts. 2-7](#))

17. Provision as to the costs that may be treated as the expenses of a winding up.

18. Provision as to the costs that may be treated as properly incurred by the administrator or administrative receiver of a company.

19. Provision as to the costs that may be incurred for any of the purposes of Part II or in the administration of any voluntary arrangement approved under that Part.

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Information and records

20. Provision requiring officers of the High Court—

- (a) to keep books and other records with respect to the exercise of the jurisdiction of the Court in relation to, or to matters connected with or arising out of, the insolvency or winding up of companies, and
- (b) to make returns to the Department of the business of the Court.

21. Provision requiring a creditor, member or contributory, or such a committee as is mentioned in paragraph 10, to be supplied (on payment in prescribed cases of the prescribed fee) with such information and with copies of such documents as may be prescribed.

22. Provision as to the manner in which public examinations under Articles 113 and 114 and proceedings under Articles 200 and 201 are to be conducted, as to the circumstances in which records of such examinations or proceedings are to be made available to prescribed persons and as to the costs of such examinations and proceedings.

23. Provision imposing requirements with respect to—

- (a) the preparation and keeping by the liquidator, administrator or administrative receiver of a company, or by the supervisor of a voluntary arrangement approved under Part II, of prescribed books, accounts and other records;
- (b) the production in the manner and at the location prescribed of those books, accounts and records for inspection by prescribed persons;
- (c) the auditing of accounts kept by the liquidator, administrator or administrative receiver of a company, or the supervisor of such a voluntary arrangement; and
- (d) the issue by the administrator or administrative receiver of a company of such a certificate as is mentioned in section 22(3)(b) of the Value Added Tax Act 1983^{F9} (refund of tax in cases of bad debts) and the supply of copies of the certificate to creditors of the company.

F9 1983 c. 55

24. Provision requiring the person who is the supervisor of a voluntary arrangement approved under Part II, when it appears to him that the voluntary arrangement has been fully implemented and that nothing remains to be done by him under the arrangement—

- (a) to give notice of that fact to persons bound by the voluntary arrangement, and
- (b) to report to those persons on the carrying out of the functions conferred on the supervisor of the arrangement.

25. Provision as to the manner in which the liquidator of a company is to act in relation to the books, papers and other records of the company, including provision authorising their disposal.

26. Provision imposing requirements in connection with the carrying out of functions under^{F10} Article 10(4) of the Company Directors Disqualification (Northern Ireland) Order 2002] (including, in particular, requirements with respect to the making of periodic returns).

F10 2002 NI 4

General

^{F11}**27.** Provision conferring power on the Department to make regulations with respect to so much of any matter that may be provided for in the rules as relates to the Insolvency Account or to the carrying out of the functions of the liquidator, administrator or administrative receiver of a company.]

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F11 "By Banking Act 2009 (c. 1), ss. 125(7), 134, 263(1) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. it is provided that Sch. 5 para. 27 is amended (17.2.2009 for certain purposes, otherwise 21.2.2009) (Sch. 5 para. 27 being the equivalent enactment having effect in relation to Northern Ireland to Sch. 8 para. 27 of the Insolvency Act 1986 (c. 45))"

28. Provision conferring a discretion on the High Court.

29. Provision conferring power on the High Court to make orders for the purpose of securing compliance with obligations imposed by or under^{F12} Article 57, 111, 121(2) or 199 of, or paragraph 48 of Schedule B1 to, this Order] or^{F13} Article 10(5) of the Company Directors Disqualification (Northern Ireland) Order 2002].

F12 Words in Sch. 5 para. 29 substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 46(6) (with art. 4); S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2 - 7)

F13 2002 NI 4

30. Provision making non#compliance with any of the rules a criminal offence.

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\(2\)](#)