

1991 No. 366

INSOLVENCY

**The Insolvent Partnerships Order
(Northern Ireland) 1991***Made* 5th August 1991*Coming into operation* 1st October 1991*To be laid before Parliament*

The Lord Chancellor, in exercise of the powers conferred on him by Article 364 of the Insolvency (Northern Ireland) Order 1989(a) and Article 24(1) of the Companies (Northern Ireland) Order 1989(b) and of all other powers enabling him in that behalf, with the concurrence of the Department of Economic Development, hereby makes the following Order:

PART I

GENERAL

Citation and commencement

1. This Order may be cited as the Insolvent Partnerships Order (Northern Ireland) 1991 and shall come into operation on 1st October 1991.

Interpretation

2.—(1) In this Order—

“the Bankruptcy Acts” means the Bankruptcy Acts (Northern Ireland) 1857 to 1980(c);

“corporate member” means an insolvent member which is a company;

“individual member” means an insolvent member who is an individual;

“insolvent member” means a member of an insolvent partnership, against whom an insolvency petition is being or has been presented;

“insolvency order” means—

(a) in the case of an insolvent partnership or a corporate member, a winding-up order; and

(b) in the case of an individual member, a bankruptcy order;

“insolvency petition” means—

(a) in the case of a petition presented against a corporate member, a petition for its winding up by the High Court; and

(a) S.I. 1989/2405 (N.I. 19)

(b) S.I. 1989/2404 (N.I. 18)

(c) 1857 c. 60; 1872 c. 57; 1872 c. 58; 1929 c. 1 (N.I.); 1963 c. 23 (N.I.); S.I. 1980/561 (N.I. 4)

(b) in the case of a petition presented against an individual member, a petition to the Court for a bankruptcy order to be made against the individual,

where the petition is presented in conjunction with a petition for the winding up of the partnership by the Court as an unregistered company under the Order;

“the Order” means the Insolvency (Northern Ireland) Order 1989; and

“responsible insolvency practitioner” means—

(a) in winding up, the liquidator; and

(b) in bankruptcy, the trustee,

and in either case includes the official receiver when so acting.

(2) The definitions in paragraph (1) other than the definition of “the Order” shall be added to those in Article 2 of the Order.

(3) A form referred to in this Order by number means the form so numbered in Schedule 3.

Members or other persons having control or management of business of insolvent partnership

3. Where an insolvent partnership is being wound up under Part VI of the Order as an unregistered company, any member or former member of the partnership or any other person who has or has had control or management of the partnership business—

(a) shall for the purposes of the provisions of the Order and the Companies (Northern Ireland) Order 1989 applied by this Order be deemed to be an officer and director of the company; and

(b) shall deliver up to the liquidator of the partnership for the purposes of the exercise of the liquidator’s functions under the provisions referred to in paragraph (a) possession of any partnership property within the meaning of the Partnership Act 1890(a) which he holds for the purposes of the partnership.

Verification of petition for winding up insolvent partnership

4. Every affidavit verifying the petition for the winding up of an insolvent partnership under Part VI of the Order shall include the names in full and addresses of all members of the partnership so far as known to the petitioner.

Application of Insolvency Rules, Insolvency Regulations, Insolvency Fees Order and Insolvency Deposits Order to provisions of the Order applied in relation to insolvent partnerships

5.—(1) The Insolvency Rules (Northern Ireland) 1991(b), the Insolvency Regulations (Northern Ireland) 1991(c), the Insolvency (Fees)

(a) 1890 c. 39

(b) S.R. 1991 No. 364

(c) S.R. 1991 No. 388

Order (Northern Ireland) 1991(a) and the Insolvency (Deposits) Order (Northern Ireland) 1991(b) apply with the necessary modifications for the purpose of giving effect to the provisions of Parts I and II and V to X of the Order which are applied in relation to insolvent partnerships with the modifications specified in this Order.

(2) In the case of any conflict between any provision of the Insolvency Rules (Northern Ireland) 1991 and any provision of this Order, the latter provision shall prevail.

(3) Article 361(2) of the Order shall apply with the following modifications—

- (a) where an order provides for any sum to be deposited on presentation of a winding-up or bankruptcy petition, that sum shall, in the case of an insolvent partnership, only be required to be deposited in respect of the petition for winding up the partnership; and
- (b) production of any receipt for the sum deposited upon presentation of the petition for winding up the partnership shall suffice for the filing in the High Court of an insolvency petition against an insolvent member.

Application of provisions of the Companies (Northern Ireland) Order 1989 in relation to insolvent partnerships

6. Where an insolvent partnership is wound up as an unregistered company under Part VI of the Order the provisions of Articles 9 to 13, 18, 22(b) and 23 of, and Schedule 1 to, the Companies (Northern Ireland) Order 1989 apply in relation to the partnership as if any member of the partnership were a director of a company, and the partnership were a company which may be wound up under Part VI of the Order.

PART II

WINDING UP OF INSOLVENT PARTNERSHIP ONLY

Application of Part VI of the Order with modifications

7. The provisions of Part VI of the Order specified in Schedule 1 shall apply in relation to the winding up of insolvent partnerships as unregistered companies with the modifications specified in that Schedule where no insolvency petition is presented by the petitioner against an insolvent member.

(a) S.R. 1991 No. 385

(b) S.R. 1991 No. 384

PART III

WINDING UP OF INSOLVENT PARTNERSHIP INVOLVING INSOLVENCY
PETITIONS AGAINST TWO OR MORE INSOLVENT MEMBERS*Application of provisions of the Order and the 1986 Companies Order with modifications*

8.—(1) Articles 184 and 185 of the Order shall apply in relation to the winding up of insolvent partnerships as unregistered companies where an insolvency petition is presented by the petitioner against two or more insolvent members, with the following modifications—

(a) in Article 184, before the words “any association” there shall be inserted the words “any insolvent partnership,”;

(b) for Article 185(1) there shall be substituted the following—

“(1) Subject to the provisions of this Part, any insolvent partnership which has a principal place of business in Northern Ireland may be wound up as an unregistered company under this Order and all the provisions of this Order and the Companies Order about winding up apply to the winding up of such a partnership as an unregistered company with the exceptions and additions mentioned in paragraphs (2) to (4) and in Part I of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1991.”;

(c) after Article 185(3) there shall be added the following paragraph—

“(3A) The High Court only has jurisdiction to wind up an insolvent partnership if the partnership has carried on business in Northern Ireland at any time in the period of 3 years ending with the day on which the petition for winding it up was presented.”; and

(d) for Article 185(4) there shall be substituted the following—

“(4) The circumstances in which an insolvent partnership may be wound up are that the partnership is unable to pay its debts.”.

(2) All the provisions of the Order and the Companies (Northern Ireland) Order 1986(a) about winding up of companies by the High Court shall apply in relation to the winding up of a corporate member where the insolvent partnership is wound up as an unregistered company under paragraph (1), with the modifications specified in Part II of Schedule 2 and all the provisions of the Order about bankruptcy of individuals shall apply in relation to the bankruptcy of an individual member, with the modifications specified in Part III of Schedule 2.

Priority of expenses of insolvency proceedings where insolvency orders are made in relation to an insolvent partnership

9.—(1) The provisions of paragraphs (2) to (5) shall apply as regards priority of expenses of insolvency proceedings, where insolvency orders are made in relation to an insolvent partnership, incurred up to and including the date of the appointment of a person to act as liquidator of the partnership and

(a) S.I. 1986/1032 (N.I. 6)

to act as the responsible insolvency practitioner in relation to any insolvent member against whom an insolvency order has been made.

(2) The joint estate of an insolvent partnership shall be applicable in the first instance in payment of the joint expenses of the insolvency proceedings in winding up the partnership, and the separate estate of each insolvent member shall be applicable in the first instance in payment of the separate expenses of the insolvency proceedings relating to that member.

(3) Where the joint estate of the partnership is insufficient for the payment in full of the joint expenses of the insolvency proceedings in winding up the partnership incurred up to and including the date mentioned in paragraph (1), the unpaid balance shall be apportioned equally between the separate estates of the insolvent members and form part of the expenses to be paid out of those estates.

(4) Where any separate estate of an insolvent member is insufficient for the payment in full of the expenses of the insolvency proceedings so incurred to be paid out of that estate, the unpaid balance shall form part of the expenses to be paid out of the joint estate of the partnership.

(5) Where after the transfer of any unpaid balance in accordance with the preceding paragraphs any estate is insufficient for the payment in full of the expenses to be paid out of that estate, the balance then remaining unpaid shall be apportioned equally between the other estates, and if after such an apportionment one or more estates are insufficient for the payment in full of the expenses to be paid out of those estates, the total of the unpaid balances of the expenses to be paid out of those estates shall continue to be apportioned equally between the other estates until provision is made for the payment in full of the expenses or there is no estate available for the payment of the balance finally remaining unpaid, in which case it abates in equal proportions between the estates which are then insufficient.

(6) The provisions of paragraphs (2), (7) and (8) shall apply as regards priority of expenses of insolvency proceedings, where insolvency orders are made in relation to an insolvent partnership, incurred after the date of the appointment of a person to act as liquidator of the partnership and to act as the responsible insolvency practitioner in relation to any insolvent member against whom an insolvency order has been made.

(7) Where the joint estate of the partnership is insufficient for the payment in full of the joint expenses of the insolvency proceedings in winding up the partnership incurred after the date mentioned in paragraph (6), the unpaid balance shall be apportioned between the separate estates of the insolvent members and form part of the expenses to be paid out of those estates in such proportions as the liquidation committee established for the partnership and any corporate member sanctions or the High Court, on application by the liquidator of the partnership or any person interested, orders.

(8) With the sanction of the liquidation committee established for the partnership and any corporate member, or with the leave of the High Court obtained on application, the responsible insolvency practitioner may—

- (a) pay out of the joint estate of the partnership as part of the expenses to be paid out of that estate any expenses so incurred for any separate estate of an insolvent member; or

- (b) pay out of any separate estate of an insolvent member any part of the expenses so incurred for the joint estate of the partnership which affects that separate estate.

Priority of debts where insolvency orders are made in relation to an insolvent partnership

10.—(1) This Article shall apply as regards priority of debts, where insolvency orders are made against an insolvent partnership and an insolvent member.

(2) The joint estate of an insolvent partnership shall be applicable in the first instance in payment of the joint debts due to the creditors of the partnership other than those to be postponed under section 3 of the Partnership Act 1890 or any provision of the Order or any other enactment, and the separate estate of each insolvent member shall be applicable in the first instance in payment of the separate debts of that member, other than those to be postponed as mentioned in this paragraph.

(3) Any surplus remaining after the payment of the separate debts of any insolvent member out of his separate estate, in accordance with paragraph (2), shall, without the prior payment of any interest under Article 160 or 300(4) of the Order, as the case may be, form part of the joint estate of the partnership and be applied in payment of the joint debts due to the creditors of the partnership.

(4) Subject to paragraph (5), any surplus remaining after the payment of the joint debts of the partnership out of its joint estate in accordance with paragraphs (2) and (3) shall form part of the separate estate of each partner in proportion to the right and interest of each such partner in the joint estate.

(5) In the case of a partner against whom an insolvency order has not been made, before any part of the surplus shall form part of his separate estate, interest shall be paid out of his share on the joint debts of the partnership to the creditors of the partnership, in pursuance of Article 160 of the Order.

(6) Distinct accounts shall be kept of the joint estate and of the separate estate or estates.

(7) Subject to this Article and of the Order and of any Order made under it and of any other enactment all debts of the partnership other than preferential debts rank equally between themselves.

(8) Nothing in this Article shall alter the effect of section 3 of the Partnership Act 1890 or any rule of law.

(9) Neither the official receiver, the Department of Economic Development, nor a responsible insolvency practitioner shall be entitled to remuneration or fees under the Insolvency Rules (Northern Ireland) 1991, the Insolvency Regulations (Northern Ireland) 1991 or the Insolvency (Fees) Order (Northern Ireland) 1991 for his services in connection with the transfer of a surplus from a separate estate of an insolvent member to the joint estate or from the joint estate to a separate estate under this Article.

(10) If any two or more members of an insolvent partnership constitute a separate partnership, the creditors of such separate partnership shall be deemed to be a separate set of creditors and subject to the same statutory

provisions as the separate creditors of any member of the insolvent partnership.

(11) Where any surplus remains after the administration of the estate of a separate partnership, the surplus shall be carried over to the separate estates of the partners in that partnership according to their respective rights and interests in it.

Voluntary arrangements in relation to winding up and bankruptcy of members of insolvent partnerships

11. Part II of the Order (Company voluntary arrangements) shall apply to corporate members, and Chapter II of Part VIII of the Order (Voluntary arrangements) shall apply to individual members, where insolvency orders are made against the partnership and an insolvent member, with the modification that any reference to the creditors of the company or of the debtor, as the case may be, includes a reference to the creditors of the partnership.

Winding up of unregistered companies which are members of an insolvent partnership

12. Where an insolvent partnership or other body which may be wound up under Part VI of the Order as an unregistered company is itself a member of an insolvent partnership being so wound up, Article 8(1) shall apply in relation to the latter insolvent partnership as though the former body were a corporate member of that partnership.

PART IV

INSOLVENCY PROCEEDINGS AGAINST MEMBERS OF INSOLVENT PARTNERSHIP NOT INVOLVING THE WINDING UP OF THE PARTNERSHIP AS AN UNREGISTERED COMPANY

Insolvency petitions by individual members

13.—(1) Where all the members of an insolvent partnership are individual members and none of them is a limited partner, a petition in Form 8 for bankruptcy orders to be made against all of them may be presented to the High Court by the individual members jointly under Article 238 of the Order without the partnership being wound up as an unregistered company under Part VI of the Order.

(2) The petition—

- (a) shall contain a request that the trustee shall wind up the partnership business and administer the partnership property; and
- (b) shall be accompanied by an affidavit made by the partner who signs the petition, showing that all the partners concur in the presentation of the petition.

(3) Where bankruptcy orders are made on a petition presented under paragraph (1), the provisions of Articles 3(b), 8(2) and 9 to 11 shall apply with the necessary modifications in relation to the individual members.

(4) In the application of Article 116(4) of the Order by virtue of paragraph (3) the words “When he is the liquidator of an insolvent partnership” and the words “in place of the official receiver” shall be omitted and for any reference to a meeting involving the creditors of any individual members summoned under that provision in paragraphs 16 and 21 in Part III of Schedule 2 there shall be substituted a reference to a meeting of all the creditors of the individual members, and any reference to a liquidation committee shall be omitted.

(5) For Article 246 of the Order there shall be substituted the following—

“246. A joint debtor’s petition in Form 8 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 may be presented to the High Court by individual members only on the grounds that the partnership is unable to pay its debts.”

(6) Any reference in Article 261 of the Order referred to in paragraph 12 of Part III of Schedule 2 as applied by virtue of paragraph (3) to a statement of affairs shall include a reference to an additional statement of the affairs of the partnership.

Insolvency proceedings against persons found to be members of an insolvent partnership

14.—(1) Where at any time after a winding-up or bankruptcy petition has been presented to the High Court against any insolvent member, the attention of the Court is drawn to the fact that the person in question is a member of an insolvent partnership, the Court may make an order as to the future conduct of the insolvency proceedings and any such order may apply any provisions of this Order with any necessary modifications.

(2) Where a bankruptcy petition has been presented against more than one individual in the circumstances mentioned in paragraph (1), the High Court may give such directions for consolidating the proceedings, or any of them, as it thinks just.

(3) Any order or directions under paragraph (1) or (2) may be made or given on the application of the official receiver, any responsible insolvency practitioner or any other interested person and may include provisions as to the administration of the estate of the partnership, and in particular as to the joint estate of the partnership and any separate estate of any member.

PART V

SUPPLEMENTAL AND TRANSITIONAL PROVISIONS

Supplemental and transitional provisions

15.—(1) This Order does not apply in relation to any case in which a petition for a winding-up order was presented against a partnership or a bankruptcy petition was presented, or an adjudication in bankruptcy was made, against a member of a partnership under the law in operation immediately before the coming into operation of this Order or in which any bankruptcy proceedings under the Bankruptcy Acts were pending on that date against any member, and where this Order does not apply, the law in operation immediately before that date continues to have effect.

(2) The reference in paragraph (1) to pending bankruptcy proceedings includes a reference to any case in which a debtor's summons against the partnership or a member of it was served.

(3) Nothing in this Order is to be taken as preventing a petition being presented against an insolvent partnership under section 92 of the Banking Act 1987(a) or under section 53 or 54 of the Insurance Companies Act 1982(b) or under any other enactment or as preventing any creditor or creditors owed one or more debts by an insolvent partnership from presenting a petition under the Order against one or more members of the partnership without including the others and without presenting a petition for the winding up of the partnership as an unregistered company, and in such a case the debt or debts shall be treated as a debt or debts of the member in question.

Dated 5th August 1991.

Mackay of Clashfern, C.

The Department of Economic Development hereby concurs with the foregoing Order.

Sealed with the Official Seal of the Department of Economic Development on 12th August 1991.

(L.S.)

A. H. McAlister

Assistant Secretary

(a) 1987 c. 22: section 92 was amended by S.I. 1989/2405 (N.I. 19), Schedule 9, paragraph 56
(b) 1982 c. 50: sections 53 and 54 were amended by 1986 c. 45, Schedule 14 and S.I. 1989/2405 (N.I. 19), Schedule 9, paragraphs 33 and 34

PROVISIONS OF PART VI OF THE ORDER APPLYING WITH RELEVANT MODIFICATIONS IN RELATION TO THE WINDING UP OF INSOLVENT PARTNERSHIPS WHERE THE PETITIONER DOES NOT PRESENT AN INSOLVENCY PETITION AGAINST AN INSOLVENT MEMBER

The following provisions of Part VI of the Order shall apply with the modifications mentioned—

1. Article 184 with the modification that before the words “any association” there shall be inserted the words “any insolvent partnership,”.

2. Article 185 with the modification that after paragraph (4) there shall be added the following paragraphs—

“(5) A petition in Form 1 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 for winding up an insolvent partnership may be presented by the liquidator of a corporate partner (or of a former corporate partner) or the trustee of a bankrupt partner’s (or of a former bankrupt partner’s) estate, if the ground of the petition is one of the circumstances in which, under paragraph (4), the High Court may make a winding-up order against an unregistered company.

(6) Where a winding-up order is made against an insolvent partnership after the presentation of a petition under paragraph (5), the High Court may appoint as liquidator of the partnership the person who is the liquidator of the corporate partner (or former corporate partner) or the trustee of the bankrupt partner’s (or former bankrupt partner’s) estate who presented the petition; and where the Court makes an appointment under this paragraph, Article 119(3) applies as if an appointment had been made under that Article.

(7) Subject to the provisions of Article 104(3) as modified by paragraph 4 of Part II of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1991, and of Article 246 as modified by paragraph 9 of Part III of that Schedule, a petition for winding up an insolvent partnership may be presented by the partnership or any member of it if—

(a) the partnership consists of not less than 8 members; or

(b) in the case of a petition presented by a member, he presents, with the leave of the High Court obtained on an application by the member, a petition for the winding up of the partnership after a written demand in Form 2 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 has been served on the partnership in respect of a joint debt or debts exceeding £750 then due by the partnership but paid by the member, other than out of money belonging to the partnership, and the Court is satisfied when granting leave to present the petition that—

(i) the member has obtained a judgment, decree or order of any court against the partnership for reimbursement to him of the amount of the joint debt or debts so paid; and

(ii) all reasonable steps (other than insolvency proceedings) have been taken by the member to enforce that judgment, decree or order.

(8) Where a winding-up petition is presented under paragraph (5), in the event of the partnership assets being insufficient to satisfy the costs of the liquidator or trustee as petitioner the costs may be paid out of the assets of the corporate or individual member, as the case may be, as part of the expenses of the liquidation or bankruptcy, in the same order of priority as expenses properly chargeable or incurred by the liquidator or trustee in getting in any of the assets of the member.”.

MODIFICATIONS TO PROVISIONS OF THE ORDER APPLYING IN RELATION TO
INSOLVENT PARTNERSHIPS WHERE THE PARTNERSHIP IS WOUND UP AS AN
UNREGISTERED COMPANY AND THE PETITIONER PRESENTS AN INSOLVENCY
PETITION AGAINST TWO OR MORE INSOLVENT MEMBERS

PART I

Article 8(1)(b)

INSOLVENT PARTNERSHIPS

Article 104

1. For Article 104 there shall be substituted the following—

“104.—(1) An application to the High Court for the winding up of an insolvent partnership shall be by petition in Form 4 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 presented by all the members of the partnership or by any creditor or creditors to whom the partnership is indebted in respect of a liquidated sum payable immediately.

(2) The petition shall be presented at the same time as any insolvency petition against an insolvent member.

(3) The petition shall be advertised in Form 5 in the said Schedule 3.

(4) At any time after presentation of the petition the petitioner may, with the leave of the High Court obtained on application and on such terms as it thinks just, add other partners as parties to the proceedings in relation to the insolvent partnership.

(5) Any partner or person against whom a winding-up or bankruptcy petition has been presented in relation to the insolvent partnership is entitled to appear and to be heard on any petition for the winding up of the partnership.

(6) The petition shall contain particulars of other petitions being presented in relation to the partnership against insolvent members, identifying the members concerned.

(7) The High Court shall fix a venue for the hearing of the petition in advance of that fixed for the hearing of any petition against an insolvent member.

(8) The petitioner may withdraw the petition if—

(a) he withdraws at the same time every petition which he has presented against any insolvent member; and

(b) he gives notice to the High Court at least 3 days before the date appointed for the hearing of the petition of his intention to withdraw the petition.

(9) Where notice is given under paragraph (8), the High Court may, on such terms as it thinks just, substitute as petitioner any creditor of the partnership who in its opinion would have a right to present the petition and at the same time substitute him as petitioner in respect of every petition which the petitioner has presented against an insolvent member, and if the Court makes such a substitution the petition in question will not be withdrawn.”

Article 105

2. For Article 105(2) there shall be substituted the following—

“(2) An order under paragraph (1) may contain directions as to the future conduct of any insolvency proceedings in existence against any insolvent member in respect of whom an insolvency order has been made.”

Article 113

3. (a) For Article 113(3) there shall be substituted the following—

“(3) On an application under paragraph (1), the High Court shall, subject to paragraph (5), direct that a public examination of the person to whom the application relates shall be held on a day appointed by the Court; and that person shall attend on that day and be publicly examined as to the promotion, formation or management of the partnership or of an insolvent member or both or as to the conduct of their business and affairs, or of his conduct or dealings in relation to the partnership or any insolvent member.”; and

- (b) after Article 113(4) there shall be added the following paragraph—

“(5) Where the High Court has already directed on a previous application in proceedings in relation to an insolvent member that a public examination of the person to whom the application under paragraph (1) relates shall be held, the Court may decline to direct that a further public examination of that person shall be held.”.

Article 116

4. (a) For Article 116(4) there shall be substituted the following—

“(4) When he is the liquidator of an insolvent partnership, the official receiver shall, in the period of 4 months beginning with the day on which the winding-up order was made against the partnership, summon and hold a single meeting of the creditors of the partnership and of any insolvent member against whom an insolvency order has been made, for the purpose of choosing a person to be liquidator of the partnership in place of the official receiver and to act as the responsible insolvency practitioner in relation to that insolvent member.

(4A) Any such single meeting of creditors held under paragraph (4) shall be conducted as if the creditors of the partnership and of any such insolvent member were a single set of creditors.”; and

- (b) Article 116(5) and (6) shall be omitted.

Article 117

5. (a) In Article 117(2), for the words from the beginning to “those meetings” there shall be substituted the words “Where at the meeting held under Article 116(4) no person is chosen to be liquidator of the insolvent partnership and to act as the responsible insolvency practitioner in relation to any insolvent member as a result of that meeting”; and

- (b) the reference in Article 117(5) to the summoning of a general meeting of creditors shall be construed as a reference to the summoning of a single general meeting of the creditors of the insolvent partnership and of the insolvent members against whom insolvency orders have been made.

Article 188 onwards in Part V

6. Any reference in Article 118 and the subsequent Articles in Part V of the Order, applied by virtue of this Order with the modifications in this Part, to the summoning of separate meetings of the creditors and contributories shall include a reference to the summoning of a single meeting of the creditors of the insolvent partnership and of any insolvent member against whom an insolvency order has been made and to the summoning of separate meetings, at the discretion of the liquidator, of the creditors of the partnership or of any such insolvent member, and to the summoning of a single meeting of the contributories of the partnership and of any corporate member against whom an insolvency order has been made and to the

summoning of separate meetings of contributories of the partnership or of any such corporate member at the discretion of the liquidator.

Article 118

7. For Article 118 there shall be substituted the following—

“(1) This Article applies where an insolvent partnership is being wound up by the High Court and a single meeting of creditors of the partnership and of any insolvent member against whom an insolvency order has been made is summoned for the purpose of choosing a person to be liquidator of the partnership and to act as the responsible insolvency practitioner in relation to any such insolvent member.

(2) The creditors at their meeting may nominate a person to be the liquidator of the partnership and to act as the responsible insolvency practitioner in relation to any such insolvent member.

(3) If a responsible insolvency practitioner when acting as liquidator of an insolvent partnership is of the opinion at any time that there is a conflict of interest between his functions as liquidator of the partnership and responsible insolvency practitioner in relation to any insolvent member against whom an insolvency order has been made, he may apply to the High Court for directions, and in such a case the Court may, without prejudice to the generality of its power to give directions, appoint one or more other insolvency practitioners in his place to act as liquidator of the partnership or as responsible insolvency practitioner in relation to any such insolvent member, or as both.”.

Article 119

8. Article 119 shall be omitted.

Article 120

9. (a) For Article 120(1) there shall be substituted the following—

“(1) Where a winding-up order has been made in relation to an insolvent partnership and a single meeting of creditors has been summoned for the purpose of choosing a person to be liquidator of the partnership and to act as the responsible insolvency practitioner in relation to any insolvent member against whom an insolvency order has been made, the meeting may establish a committee (“the liquidation committee”), consisting of creditors of the partnership or of such insolvent members, or of both, for the partnership and for any corporate member to exercise the functions conferred on it by or under this Order.”;

(b) in Article 120(2), for the words “separate general meetings of the company’s creditors and contributories” there shall be substituted the words “a single general meeting of the creditors of the partnership and of any insolvent member against whom an insolvency order has been made”; and

(c) for Article 120(3) there shall be substituted the following—

“(3) The High Court may at any time, on application by a creditor of the partnership or of any insolvent member, appoint additional members of the liquidation committee, and if it does so the limit on the maximum number of members of the committee specified in the Insolvency Rules (Northern Ireland) 1991 shall be increased by the number of additional members appointed by the Court.”.

Article 121

10. After Article 121(1) there shall be added the following paragraph—

“(1A) In carrying out his functions in regard to the distribution of the assets of an insolvent partnership, the liquidator shall have regard to the provisions of Articles 9 and 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of expenses and debts respectively).”.

Article 132

11. In Article 132, following the words “persons entitled to it”, there shall be added the words “having regard in relation to insolvent partnerships to the provisions of Articles 9 and 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of expenses and debts respectively)”.

Article 143

12. (a) In Article 143(2)—

(i) the words “or contributories” where they secondly occur shall be omitted; and

(ii) the words “or contributories (as the case may be)” shall be omitted; and

(b) in Article 143(3), following the words “in the winding up”, there shall be added the words “or in relation to any insolvency proceedings in respect of any insolvent member, and any order made on such an application may contain directions as to the future conduct of any insolvency proceedings in existence against any insolvent member in respect of whom an insolvency order has been made”.

Article 146

13. (a) For Article 146(2) there shall be substituted the following—

“(2) Subject to paragraph (4), the liquidator or provisional liquidator of an insolvent partnership may be removed from office only by an order of the High Court.”;

(b) Article 146(3) shall be omitted; and

(c) for Article 146(6) there shall be substituted the following—

“(6) A liquidator of an insolvent partnership may, with the leave of the High Court, or, if appointed by the Department, of the Department, resign his office by giving notice of his resignation to the Court.”.

Article 148(4)

14. (a) In Article 148(4)(a), the words “who has been removed from office by a general meeting of creditors that has not resolved against his release or” shall be omitted;

(b) for Article 148(4)(b) there shall be substituted the following—

“(b) in the case of a person who has been removed from office by the High Court or by the Department, or who has vacated office under Article 146(5), such time as the Department may, on an application by that person, determine;”, and

(c) for Article 148(4)(c) there shall be substituted the following—

“(c) in the case of a person who has resigned as liquidator of an insolvent partnership, such time as may be directed by the High Court or, if he was appointed by the Department, such time as the Department may, on an application by that person, determine;”.

Article 160

15. After Article 160(4) there shall be added the following paragraph—

“(5) The provisions of this Article are subject to Article 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of debts).”.

Article 186(1)

16. For Article 186(1) there shall be substituted the following—

“(1) An insolvent partnership is deemed (for the purposes of Article 185) unable to pay its debts if there is a creditor, by assignment or otherwise, to whom the partnership owes a joint debt in a sum exceeding £750 then due and—

(a) the creditor has served on the partnership, by leaving at its principal place of business in Northern Ireland, or by delivering to a partner or any person having at the time of service control or management of the partnership business there, or by otherwise serving in such manner as the High Court may approve or direct, a written demand in Form 3 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991, and the creditor has also served on any two or more insolvent members demands in accordance with paragraph 3 of Part II and paragraph 6 of Part III of Schedule 2 to that Order, requiring the partnership and its members to pay the sum due to the creditor, and

(b) the partnership and its members have for 3 weeks after the service of the demands, or the last of them if served at different times, neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor.”.

Articles 187 and 188

17. Articles 187 and 188 shall be omitted.

PART II

Article 8(2)

CORPORATE MEMBERS

Article 60

1. For Article 60 there shall be substituted the following—

“60. A corporate member may be wound up by the High Court (Chapter VI).”.

Article 102

2. For Article 102 there shall be substituted the following—

“102. A corporate member may be wound up by the High Court if it is unable to pay its debts.”.

Article 103

3. (a) For Article 103(1) there shall be substituted the following—

“(1) A corporate member is deemed unable to pay its debts if a creditor (by assignment or otherwise) to whom the partnership owes a joint debt in a sum exceeding £750 then due has served on the company and the partnership, by leaving in the case of service on the company at the company's registered office and in the case of service on the partnership by leaving at its principal place of business in Northern Ireland or by delivering to a partner or any

person having at the time of service control or management of the partnership business there, or by otherwise serving in such manner as the High Court may approve or direct, a written demand in Form 3 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 requiring the company and the partnership to pay the sum so due and the company and the partnership have, for 3 weeks after the relevant demand has been served, neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor.”; and

(b) after Article 103(3) there shall be added the following paragraph—

“(4) A corporate member is also deemed unable to pay its debts if the High Court has made a winding-up order against the partnership.”.

Article 104

4. For Article 104 there shall be substituted the following—

“104.—(1) An application to the High Court for the winding up of a corporate member shall be by petition in Form 6 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 presented by that member or any creditor or creditors to whom the partnership is indebted in respect of a liquidated sum payable immediately.

(2) The petition shall be presented at the same time as the petition for the winding up of the insolvent partnership.

(3) A petition by a corporate member may be presented only on the grounds that the partnership is unable to pay its debts and if—

(a) petitions are at the same time presented for insolvency orders against the partnership and every other member; and

(b) each member is willing for an insolvency order to be made against him and the petition contains a statement to this effect.

(4) The petition shall be advertised in Form 5 in the said Schedule 3.

(5) At any time after presentation of the petition the petitioner may, with the leave of the High Court obtained on application and on such terms as it thinks just, add other partners as parties to the proceedings in relation to the insolvent partnership.

(6) The petition shall contain particulars of other petitions being presented in relation to the partnership, identifying the partnership and members concerned.

(7) The petitioner may withdraw the petition if—

(a) he withdraws at the same time every other petition which he has presented against the partnership and any other insolvent member, unless the High Court is satisfied on application made to it by the petitioner that, because of difficulties of serving the petition or for any other reason, the continuance of that petition would be likely to prejudice or delay the proceedings on the petition which he has presented against the partnership or on any petition which he has presented against any other insolvent member; and

(b) he gives notice to the High Court at least 3 days before the date appointed for the hearing of the petition of his intention to withdraw the petition.

(8) Where notice is given under paragraph (7) the High Court may, on such terms as it thinks just, substitute as petitioner any creditor of the partnership who in its opinion would have a right to present the petition and who has been substituted by the Court as petitioner in respect of the petition for winding up the partnership and at the same time substitute him as petitioner in respect of every petition which the petitioner has presented against other corporate members, and

if the Court makes such a substitution the petition in question will not be withdrawn.”.

Article 105

5. For Article 105(2) there shall be substituted the following—

“(2) On the hearing of a winding-up petition against a corporate member the petitioner shall draw the High Court’s attention to the result of the hearing on the winding-up petition against the partnership, and, subject to paragraph (3), if a winding-up order has been made against the partnership the Court shall make a winding-up order against any corporate member in respect of whom an insolvency petition has been presented.

(3) The High Court may dismiss a petition against a corporate member who is a limited partner, if—

- (a) he lodges in the Court for the benefit of the creditors of the partnership sufficient money or security to the Court’s satisfaction to meet his limited liability for the debts and obligations of the partnership; or
- (b) he satisfies the Court that he is no longer under any liability in respect of the debts and obligations of the partnership.”.

Article 111(2)

6. In Article 111(2)(a), following the words “assets, debts and liabilities”, there shall be added the words “, specifying the corporate member’s interest in the assets of the insolvent partnership and specifying those debts and liabilities which are attributable to the separate and joint estates respectively”.

Article 113

7. (a) For Article 113(3) there shall be substituted the following—

“(3) On an application under paragraph (1), the High Court shall, subject to paragraph (5), direct that a public examination of the person to whom the application relates shall be held on a day appointed by the Court; and that person shall attend on that day and be publicly examined as to the promotion, formation or management of the corporate member, the partnership or any other corporate member, or all of them, or as to the conduct of their business and affairs, or of his conduct or dealings in relation to the partnership or any other insolvent member.”; and

(b) after Article 113(4) there shall be added the following

“(5) Where the High Court has already directed on a previous application in proceedings in relation to the partnership or another insolvent member that a public examination of the person to whom the application under paragraph (1) relates shall be held, the Court may decline to direct that a further public examination of that person shall be held.”.

Article 116

8. (a) Any reference in Article 136(4) and the subsequent Articles in Part V of the Order, applied by virtue of this Order with the modifications in this Part, to the summoning of separate meetings of the creditors and contributories or a general meeting of creditors shall include a reference to the summoning of a meeting or meetings held pursuant to paragraphs 4 to 9 of Part I; and

(b) Articles 116(5) and (6) shall be omitted.

Article 199

9. Article 119 shall be omitted.

Article 121

10. After Article 121(1) there shall be added the following paragraph—

“(1A) In carrying out his functions in regard to the distribution of the assets of a corporate member, the liquidator shall have regard to the provisions of Articles 9 and 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of expenses and debts respectively).”

Article 132

11. In Article 132, following the words “persons entitled to it”, there shall be added the words “having regard in relation to corporate members to the provisions of Articles 9 and 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of expenses and debts respectively)”.

Article 143

12. In Article 143(2)—

- (a) the words “or contributories” where they secondly occur shall be omitted; and
- (b) the words “or contributories (as the case may be)” shall be omitted.

Article 146

13. (a) For Article 146(2) there shall be substituted the following—

“(2) Subject to paragraph (4), the liquidator or provisional liquidator of a corporate member may be removed from office only by an order of the High Court.”;

(b) Article 146(3) shall be omitted; and

(c) for Article 146(6) there shall be substituted the following—

“(6) A liquidator of a corporate member may, with the leave of the High Court, or, if appointed by the Department, of the Department, resign his office by giving notice of his resignation to the Court.”.

Article 148(4)

14. (a) In Article 148(4)(a), the words “who has been removed from office by a general meeting of creditors that has not resolved against his release or” shall be omitted;

(b) for Article 148(4)(b) there shall be substituted the following—

“(b) in the case of a person who has been removed from office by the High Court or by the Department, or who has vacated office under Article 146(5), such time as the Department may, on an application by that person, determine;”;

(c) for Article 148(4)(c) there shall be substituted the following—

“(c) in the case of a person who has resigned as liquidator of a corporate member, such time as may be directed by the High Court or, if he was appointed by the Department, such time as the Department may, on an application by that person, determine;”.

Article 160

15. After Article 160(4) there shall be added the following paragraph—

“(5) The provisions of this Article are subject to Article 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of debts).”

PART III

Article 8(2)

INDIVIDUAL MEMBERS

Article 11

1. Article 11(2) shall be omitted so far as it relates to partnership property.

Article 238

2. (a) For Article 238(1) there shall be substituted the following—

“(1) A petition in Form 7 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 for a bankruptcy order (a bankruptcy petition) to be made against an individual member of an insolvent partnership may be presented to the High Court in accordance with the following provisions of this Part by one of the individual’s creditors or jointly by more than one of them and no petition can be presented under the following provisions of this Part against the partnership or against the partners in the name of the firm.”; and

(b) after Article 238(1) there shall be added the following paragraphs—

“(1A) The petition shall be presented at the same time as the petition for the winding up of the partnership.

(1B) At any time after presentation of the petition the petitioner may, with the leave of the High Court obtained on application and on such terms as it thinks just, add other partners as parties to the proceedings in relation to the insolvent partnership.

(1C) The petition shall contain particulars of other petitions being presented in relation to the partnership, identifying the partnership and members concerned.

(1D) The petitioner may withdraw the petition if—

(a) he withdraws at the same time every other petition which he has presented against the partnership and any other insolvent member, unless the High Court is satisfied on application made to it by the petitioner that, because of difficulties of serving the petition or for any other reason, the continuance of that petition would be likely to prejudice or delay the proceedings on the petition which he has presented against the partnership or on any petition which he has presented against any other insolvent member; and

(b) he gives notice to the High Court at least 3 days before the date appointed for the hearing of the petition of his intention to withdraw the petition.

(1E) Where notice is given under paragraph (1D), the High Court may, on such terms as it thinks just, substitute as petitioner any creditor of the partnership who in its opinion would have a right to present the petition and who has been substituted by the Court as petitioner in respect of the petition for winding up the partnership and at the same time substitute him as petitioner in respect of every petition which the petitioner has presented against other individual members, and if the Court makes such a substitution the petition in question will not be withdrawn.”

Article 239

3. For Article 239 there shall be substituted the following—

“239. A bankruptcy petition shall not be presented to the High Court under Article 238 against an individual member unless the Court has jurisdiction to wind up the partnership.”.

Article 240

4. Article 240(1) shall be omitted.

Article 241

5. (a) In Article 241(1) for the words “debts owed by the debtor” there shall be substituted the words “joint debts owed by the insolvent partnership”;
- (b) in Article 241(2)(b) for all the words after “creditors” to the end of the subparagraph there shall be substituted the word “immediately”;
- (c) in Article 241(2)(c)—
- (i) for the word “debtor” there shall be substituted the words “individual member”;
- (ii) the words “either” and “or to have no reasonable prospect of being able to pay” shall be omitted.

Article 242

6. (a) In Article 242(1) for the words from the beginning to subparagraph (a) there shall be substituted the words “(1) For the purposes of Article 241(2)(c), the individual member appears to be unable to pay a debt if, but only if, the debt is payable immediately and”;
- (b) for Article 242(1)(a) there shall be substituted the following—
- “(a) the petitioning creditor to whom the insolvent partnership owes a joint debt has served on the individual member a demand (known as “the statutory demand”), and on the partnership a demand (known as “the written demand”), in Form 3 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 requiring the member and the partnership to pay the debt or to secure or compound for it to the reasonable satisfaction of the creditor, at least 3 weeks have elapsed since the relevant demand was served and both the demands have not been complied with or the demand against the member has not been set aside in accordance with the rules.”;
- (c) Article 242(1)(b) shall be omitted; and
- (d) for Article 242(2) there shall be substituted the following—
- “(2) For the purposes of Article 241(2)(c), the individual member also appears to be unable to pay a debt if the High Court has made a winding-up order against the partnership.
- (3) Subject to paragraph (4), where the petitioning creditor has obtained a judgment, decree or order of any court against the individual member or against the partnership, the statutory demand may be served at the principal place of business of the partnership in Northern Ireland on the individual member or on any partner or any other person having at the time of service control or management of the partnership business there.
- (4) Such service shall not be effective service of the statutory demand on any person unless the creditor was at the time of such service entitled to enforce the judgment, decree or order in question against the property of the member or of the partnership, as the case may be.”.

Articles 243 and 244

7. Articles 243 and 244 shall be omitted.

Article 245

8. (a) In Article 245(1) the word “either” and sub-paragraph (b) shall be omitted;

(b) for Article 245(2) and (3) there shall be substituted the following—

“(2) The High Court may dismiss the petition if no winding-up order has been made against the insolvent partnership.”; and

(c) after Article 245(2) there shall be added the following paragraphs—

“(2A) On the hearing of the petition the petitioner shall draw the High Court’s attention to the result of the hearing on the winding-up petition against the partnership, and, subject to paragraph (2B), if a winding-up order has been made against the partnership the Court shall make a bankruptcy order against any individual member in respect of whom an insolvency petition has been presented.

(2B) The High Court may dismiss a petition against an individual member who is a limited partner, if—

(a) he lodges in the Court for the benefit of the creditors of the partnership sufficient money or security to the Court’s satisfaction to meet his limited liability for the debts and obligations of the partnership; or

(b) he satisfies the Court that he is no longer under any liability in respect of the debts and obligations of the partnership.”.

Article 246

9. For Article 246 there shall be substituted the following—

“246. A debtor’s petition in Form 7 in Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1991 may be presented to the High Court by an individual member only on the grounds that the partnership is unable to pay its debts and if—

(a) petitions are at the same time presented for insolvency orders against the partnership and every other member; and

(b) each member is willing for an insolvency order to be made against him and the petition contains a statement to this effect.”.

Articles 247 to 251

10. Articles 247 to 251 shall be omitted.

Article 257(6)

11. In Article 257(6), following the words “for any other person”, there shall be added the words “other than a disposition made by an individual member of property held by him on trust for the partnership”.

Article 261

12. (a) In Article 261(1), the words “otherwise than on a debtor’s petition” shall be omitted; and

(b) in Article 261(2)(a) after the word “prescribed” there shall be inserted the words “, specifying the individual member’s interest in the assets of the insolvent partnership and specifying those debts and liabilities which are attributable to the separate and joint estates respectively”.

Article 263

13. (a) For Article 263(3) there shall be substituted the following—

“(3) On an application under paragraph (1), the High Court shall, subject to paragraph (4A), direct that a public examination of the individual member shall be held on a day appointed by the Court; and the individual member shall attend on that day and be publicly examined as to his affairs, dealings and property and to those of the partnership or of another insolvent member or both.”; and

- (b) after Article 263(4) there shall be added the following paragraph—

“(4A) Where the High Court has already directed on a previous application in proceedings in relation to the partnership or another insolvent member that a public examination of the person to whom the application under paragraph (1) relates shall be held, the Court may decline to direct that a further public examination of that person shall be held.”.

Article 265(1)

14. In Article 265(1), the words “(whether the first such trustee or a trustee appointed to fill any vacancy)” and sub-paragraph (c) shall be omitted.

Articles 266 and 267

15. Articles 266 and 267 shall be omitted.

Article 268

16. (a) In Article 268(1), for the words “If a meeting summoned under Article 266 or 267” there shall be substituted the words “When a meeting involving the creditors of any individual member summoned under Article 116(4) as applied with modifications in relation to insolvent partnerships by paragraph 4 of Part I of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1991”; and
- (b) in Article 268(4) the words “in a case in which no notice has been given under Article 266(2)” shall be omitted.

Article 270

17. Article 270 shall be omitted.

Article 271

18. (a) In Article 271(1), the words “or by” to the end of the paragraph shall be omitted;
- (b) Article 271(2) and (3) shall be omitted; and
- (c) for Article 271(6) there shall be substituted the following—
- “(6) The trustee of the estate of an individual member may, with the leave of the High Court, or, if appointed by the Department, of the Department, resign his office by giving notice of his resignation to the Court.”.

Article 272(3)

19. (a) In Article 272(3)(a), the words “who has been removed from office by a general meeting of the bankrupt’s creditors that has not resolved against his release or” shall be omitted;

(b) for Article 272(3)(b) there shall be substituted the following—

“(b) in the case of a person who has been removed from office by the High Court or by the Department or who has vacated office under Article 271(5), such time as the Department may, on an application by that person, determine;” and

(c) for Article 272(3)(c) there shall be substituted the following—

“(c) in the case of a person who has resigned as trustee of the estate of an individual member, such time as may be directed by the High Court or, if he was appointed by the Department, such time as the Department may, on an application by that person, determine;”.

Article 273

20. (a) Article 273(3) to (5) shall be omitted and for paragraph (2) there shall be substituted the following—

“(2) The official receiver may refer the need for an appointment to the Department and shall be trustee of the estate of the individual member until the vacancy is filled.”; and

(b) in Article 273(6) and (7) for the words “(4) or (5)” there shall be substituted the word “(2)”.

Article 274

21. (a) For Article 274(1) there shall be substituted the following—

“(1) Subject to paragraph (2), a general meeting involving the creditors of any individual member summoned under Article 116(4), as applied with modifications in relation to insolvent partnerships by paragraph 4 of Part I of Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1991, may establish a committee (known as “the creditors’ committee”) composed of the same persons as the liquidation committee established under Article 120, as applied with modifications in relation to insolvent partnerships by paragraph 9 of the said Part I, to exercise the functions conferred on it by or under this Order.”; and

(b) in Article 274(2), for the words “of the bankrupt’s creditors” there shall be substituted the words “involving the creditors of any such individual member”.

Article 278

22. After Article 278(2) there shall be added the following paragraph—

“(2A) In carrying out his functions in regard to the distribution of the estate of the individual member, the trustee shall have regard to the provisions of Articles 9 and 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of expenses and debts respectively).”.

Article 300

23. After Article 300(6) there shall be added the following paragraph—

“(7) The provisions of this Article are subject to the provisions of Article 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of debts).”.

Article 303(5)

24. For Article 303(5) there shall be substituted the following—

“(5) If a surplus remains after payment in full and with interest of all the creditors in accordance with Articles 9 and 10 of the Insolvent Partnerships Order (Northern Ireland) 1991 (relating to priority of expenses and debts respectively), it shall be applied in accordance with those Articles.”.

Insolvency
SCHEDULE 3

No. 366
Article 13(1)
Schedule 1, paragraph 2
Schedule 2, Part 1,
paragraphs 1 and 16
Part II, paragraphs 3 and 4
Part III, paragraphs 2, 6 and 9

FORMS RELATING TO INSOLVENT PARTNERSHIPS

The Insolvent Partnerships Order (Northern Ireland) 1991

**Liquidator's or Trustee's
Petition to Wind Up Partnership**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

*Insert full name of
partnership

Re*

To The High Court of Justice in Northern Ireland

(a)Insert full name
and address of
petitioner

The petition of (a)

(b) Insert name of
insolvent

1. I am the liquidator/trustee of (b)

(c) Insert full name of
partnership subject
to petition

who is/was a member of (c)

(hereinafter called "the partnership".)

(d) Insert the nature
of the partnership's
business

(d)

(e)Insert address of
principal place of
business

2. The principal place of business of the partnership is at (e)

(f) Set out the
grounds on which a
winding-up order is
sought

3. (f)

4. In the circumstances the partnership should be wound up.

The petitioner therefore prays as follows:—

(1) that (c)

may be wound up by the court under the provisions of the
Insolvency (Northern Ireland) Order 1989

OR

(2) that such other order may be made as the court thinks fit.

Note:

(g) Add full name and
address of any other
person on whom it is
intended to serve this
petition

It is intended to serve this petition on the partnership [and] (g).

ENDORSEMENT

This petition against the partnership having been presented to the court on _____ will be heard at Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF

on:

Date _____

Time _____

(or as soon thereafter as the petition can be heard)

The solicitor to the petitioner is:—

Name _____

Address _____

Telephone no. _____

Fax no. _____

Reference _____

[Whose Agents are:—

Name _____

Address _____

Telephone no. _____

Fax no. _____

Reference _____]

Schedule 1
para 2

Form 2
No.

The Insolvent Partnerships Order (Northern Ireland) 1991

Written Demand by Member of Partnership

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

Re _____ (Insert full name of partnership)

Warning

- This is an important document. This demand must be dealt with within 21 days of its service upon the partnership or a winding-up order could be made in respect of the partnership.
- Please read the demand and the notes overleaf carefully

Demand

To _____

Address _____

This demand is served by the member _____ of

Address _____

The member claims that the partnership owes the following debt which he has paid, other than out of money belonging to the partnership.

When incurred	Description of debt	Amount due as at the date of this demand	Date of order, decree, or judgment of court obtained by a member and steps that he has taken to enforce it
(1)	(2)	(3)	(4)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Amount of debt		£	<input style="width: 100px; height: 20px;" type="text"/>

The member demands that the partnership do pay the above-mentioned debt or secure or compound for it to his satisfaction

Signature _____

Name of signatory (BLOCK LETTERS) _____

Date _____

Position with or relationship to member _____

_____ duly authorised _____

Address _____

Tel. No. _____

Reference No. _____

Notes

- If signatory is a solicitor or other agent of the creditor the name of his/her firm should be given.
- The person making the demand must complete the whole of this page and part A overleaf

Part A

The person(s) to whom any communication regarding this demand should be addressed is

Name(s) _____

Address(es) _____

Tel. No(s) _____

How to comply with a written demand

To avoid insolvency proceedings being taken the debt set out on page 1 of this notice must be paid within the period of 21 days of service of the written demand. Alternatively, a settlement can be reached with the member. To do this the person named in Part A must be informed immediately:—

- of any security offered for the debt to the member's satisfaction, or
- of any terms available for settlement of the debt to the member's satisfaction.

If the debt is disputed in whole or in part contact the person named in part A immediately.

REMEMBER! There are only 21 days from the date of service of this document before the member may present the winding-up petition.

The Insolvent Partnerships Order (Northern Ireland) 1991

Schedule 2
Part I para 16
Part II para 3
Part III para 6

Form 3
No.

Written/Statutory Demand by Creditor of Partnership

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

Re _____ (Insert full name of partnership)

Warning

- This is an important document. This demand must be dealt with within 21 days of its service upon the partnership and its members or a winding-up order could be made in respect of the partnership and any corporate member, and a bankruptcy order against any individual member.
- Please read the demand and the notes overleaf carefully.
- If you are in any doubt about your position you should seek advice immediately from a solicitor or your nearest Citizens Advice Bureau.
- There are additional notes overleaf.

Demand

To _____

Address _____

a member of _____ (Insert full name of partnership) ("the partnership")

This demand is served by the creditor _____ of _____

Address _____

The creditor claims that the partnership or owes the following debt:

When incurred	Description of debt	Amount due as at the date of this demand
(1)	(2)	(3)
_____	_____	_____
_____	_____	_____
_____	_____	_____

Amount of debt £

The creditor demands that the partnership or a member do pay the above-mentioned debt or secure or compound for it to the creditor's satisfaction

Signature _____

Name of signatory (BLOCK LETTERS) _____

Date _____

Position with or relationship to creditor _____

_____ duly authorised

Address _____

Tel. No. _____

Reference No. _____

Note

- If signatory is a solicitor or other agents of the creditor the name of his/her firm should be given.
- The person making the demand must complete the whole of this page and parts A, B and C overleaf

Notes for creditor

- If the creditor is entitled to the debt by way of assignment, details of the original creditor and any intermediary assignees should be given in part B on page 2.
- If the amount of the debt includes interest, details should be given in column (2), including the grounds upon which interest is charged. The amount of interest must be shown separately in column (3).
- Any other charge accruing due from time to time may be claimed. The amount or rate of the charge must be identified and the grounds on which it is claimed must be stated.
- In either case the amount claimed must be limited to that which has accrued due at the date of the demand.
- 5. If signatory is a solicitor or other agent of the creditor the name of his/her firm should be given.

Part A

The person(s) to whom any communication regarding this demand should be addressed is:

Name(s) _____

Address(es) _____

Tel. No(s). _____

Part B

For completion if the creditor is entitled to the debt by way of assignment

	Name	Date(s) of Assignment
Original creditor		
Assignees		

Part C

It is intended that a demand in respect of the debt shown on page 1 will also be served on the following:

Part D

Consequence of non-compliance

If this demand is not complied with within 21 days of service I intend to present winding-up and/or bankruptcy petitions against all the persons named in this demand.

How to comply with a demand

To avoid insolvency proceedings being taken the debt set out on page 1 of this notice must be paid within the period of 21 days of service of the demand. Alternatively, a settlement can be reached with the creditor. To do this the person named in Part A must be informed immediately:—

- of any security offered for the debt to the creditor's satisfaction, or
- of any terms available for settlement of the debt to the creditor's satisfaction.

If the debt is disputed in whole or in part contact the person named in part A immediately.

NOTE:

Only applicable where demand served on an individual member of the partnership.

If you consider that you have grounds to have this notice set aside or if you do not receive a satisfactory written reply from the person or persons (or one of the persons) named in part A before the expiration of 18 days after the service you should:

- apply without delay to the High Court to have the notice set aside.

REMEMBER! There are only 21 days from the date of service of this document before the creditor may present winding-up/bankruptcy petitions.

The Insolvent Partnerships Order (Northern Ireland) 1991

**Petition to Wind Up Partnership (Presented in
Conjunction with Petitions Against Members)**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

*Insert full name of
partnership

Re*

To The High Court of Justice in Northern Ireland

(a) Insert full name(s)
and address(es) of
petitioner(s)

The petition of (a)

(b) Insert full name of
partnership subject to
petition

1. (b)

(hereinafter called "the partnership").

(c) Insert the nature
of the partnership's
business

(c)

has carried on business in Northern Ireland in the period of 3
years ending with the day on which this petition is presented.

(d) Insert address of
principal place of
business

2. The principal place of business of the partnership is at (d)

3. The partnership is justly and truly indebted to me[us] in the
aggregate sum of £_____.

The above-mentioned debt is for a liquidated sum payable
immediately.

(e) Insert date of
service
(f) State manner of
service of demand

On (e) _____ a written demand was served upon the
partnership by (f) _____
in respect of the above-mentioned debt. To the best of my
knowledge and belief the demand has not been complied with.

OR

This petition is presented by all the members of the partnership.

4. The partnership is unable to pay its debts and in the circumstances the partnership should be wound up.

The petitioner(s) therefore pray(s) as follows:—

(1) that (b) may be wound up by the court under the provisions of the Insolvency (Northern Ireland) Order 1989

OR

(2) that such other order may be made as the court thinks fit.

Note 1:

Petitions are also being presented against the following members of the partnership:

Name	Address	Type of Petition (winding-up or bankruptcy)	Date demand served

Note 2:

It is intended to serve this petition on the partnership.

ENDORSEMENT

This petition against the partnership having been presented to the court on _____ will be heard at Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF

on:

Date _____

Time _____

(or as soon thereafter as the petition can be heard)

The solicitor to the petitioner is:—

Name _____

Address _____

Telephone no. _____

Fax no. _____

Reference _____

[Whose Agents are:—

Name _____

Address _____

Telephone no. _____

Fax no. _____

Reference _____]

The Insolvent Partnerships Order (Northern Ireland) 1991

**Advertisement of Winding-Up Petition(s)
Against Partnership (And Any Corporate
Members)**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

Insert full name of partnership Re

(a) Insert full names of partnership and any corporate members, and partnership's principal place of business and nature of its business Petitions to wind up (a)

(b) Insert date presented on (b)

(c) Insert name and address of petitioner by (c)

(d) Delete as applicable (d) [claiming to be a creditor of the partnership] will be heard at The Royal Courts of Justice, Chichester Street, Belfast BT1 3JF

on:

Date _____

Time _____

(or as soon thereafter as the petition can be heard)

Any person intending to appear on the hearing of the petition(s) (whether in support or opposition) must give notice of intention to do so to the petitioner or his/its solicitor in accordance with Rule 4.016 of the Insolvency Rules (Northern Ireland) by 1600 hours on

(e) Insert date, which should be the business day before that appointed for the hearing (e)

The Petitioner's solicitor is (f)

(f) Where applicable insert name and address of solicitor

Dated _____

NOTE:

Details of individual members of the partnership against whom bankruptcy petitions are being presented in conjunction with the winding-up petition against the partnership should *not* be included in this advertisement.

(f) Insert full name of partnership against which winding-up petition has been presented to this court

5. The subject of this petition is a member of (f)

which has carried on business in Northern Ireland in the period of 3 years ending with (g) _____, the day on which a winding-up petition was presented to this court against the partnership.

(g) Insert appropriate date

6. The partnership is justly indebted to me [us] in the aggregate sum of £_____.

The above-mentioned debt is for a liquidated sum payable immediately.

(h) State manner of service of demand

On (g) _____ a demand was served upon the company and the partnership by (h) _____ in respect of the above-mentioned debt. To the best of my knowledge and belief the demand has not been complied with.

OR

A petition has been presented against the partnership by all its members and this petition is presented in conjunction with that petition.

7. The partnership is unable to pay its debts, [each member is willing for an insolvency order to be made against him] and in the circumstances the member should be wound up. The petitioner(s) therefore pray(s) as follows:—

(1) that (b)

may be wound up by the court under the provisions of the Insolvency (Northern Ireland) Order 1989

OR

(2) that such other order may be made as the court thinks fit.

Note 1:

Petitions are also being presented against the following members of the partnership:

Name	Address	Type of Petition (winding-up or bankruptcy)	Date demand served
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Note 2:

It is intended to serve this petition on (b)

ENDORSEMENT

This petition having been presented to the court on _____ will be heard at Royal Courts of Justice, Chichester Street, Belfast , BT1 3JF

on:

Date _____

Time _____

(or as soon thereafter as the petition can be heard)

The solicitor to the petitioner is:—

Name _____

Address _____

Telephone no. _____

Fax no. _____

Reference _____

[Whose Agents are:—

Name _____

Address _____

Telephone no. _____

Fax no. _____

Reference _____]

The Insolvent Partnerships Order (Northern Ireland) 1991

**Bankruptcy Petition Against Individual
Member (Presented in Conjunction With
Petition Against Partnership)**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

Re*

I/We (a) _____

petition the court that a bankruptcy order may be made against

(b) _____

[also known as (c) _____]

[and carrying on business as (d) _____]

[and lately residing at (e) _____]

[and lately carrying on business as (f) _____]

On the ground that:

(1) he is a member of (g) _____
which has carried on business in Northern Ireland in the period
of 3 years ending with (h) _____, the day on which a
winding-up petition was presented to this court against the
partnership.
The partnership is justly and truly indebted to me[us] in the
aggregate sum of £_____.

The above-mentioned debt is for a liquidated sum payable
immediately.

On (h) _____ a demand was served upon the member and
the partnership by (j) _____

in respect of the above-mentioned debt.

To the best of my knowledge and belief the demand has not been
complied with and no application has been made to set it aside

- *Insert name and short description of member and trading name (if any)
- (a) Insert full name(s) and address(es) of petitioner(s)
- (b) Insert full name, place of residency and occupation (if any) of member
- (c) Insert in full any other name(s) by which the member is or has been known
- (d) Insert trading name (adding "with another or others", if this is so), business address and nature of business
- (e) Insert any other address(es) at which the member has resided at or after the time at which the petition debt of the partnership (g) was incurred
- (f) Give the same details as specified in note (d) for any other business(es) which have been carried on at or after the time at which the petition debt of the partnership (g) was incurred
- (g) Insert name of partnership subject to winding up petition
- (h) Insert appropriate date

(j) State manner of service of demand

OR

(2) a petition has been presented against the partnership by all its members and this petition is presented in conjunction with that petition.

The partnership is unable to pay its debts, [each member is willing for an insolvency order to be made against him] and in the circumstances a bankruptcy order should be made against (b)

NOTE 1:

Petitions are also being presented against the following members of the partnership:

Name	Address	Type of Petition (winding-up or bankruptcy)	Date demand served

NOTE 2:

It is intended to serve this petition on (b).

• Signature _____

• Date _____

• Only required where petition presented by member

ENDORSEMENT

This petition having been presented to the court on _____ it is ordered that the petition shall be heard as follows:

Date _____

Time _____

Place _____

(k) Insert name of member

and you, the above-named (k) _____ are to take notice that if you intend to oppose the petition you must not later than 7 days before the day fixed for the hearing:

(i) file in court a notice in form 6.20 of the Insolvency Rules (Northern Ireland) 1991 specifying the grounds on which you object to the making of a bankruptcy order; and

(ii) send a copy of the notice to the petitioner or his solicitor.

(l) Only to be completed where the petitioning creditor is represented by a solicitor

The solicitor to the petitioner is (l):

Name _____

Address _____

Telephone Number _____

Fax No. _____

Reference _____

[Whose Agents are:

Name _____

Address _____

Tel. No. _____

Fax No. _____

Reference _____]

The Insolvent Partnerships Order (Northern Ireland) 1991

Joint Bankruptcy Petition Against Individual Members of Partnership

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

Re*

Details of members

*Insert name and short description of each member of partnership and trading name of partnership (if any)

(a) Insert separately for each member their full name, any other names by which they are or have been known and their occupation

(1) I (a)

(b) Insert separately for each member their residential address.

(b)

[and carrying on/lately carrying on business as

(c) Excluding the partnership insert separately for each member the trading name, business address and nature of any business carried on at, or after the time, the partnership debts were incurred

(c)

]

AND

(2) I (a)

(b)

[and carrying on/lately carrying on business as

(c)

]

AND

*Continue with separate numbered paragraphs for each member

*(3) I (a)

(b)

(c)

(d) Insert name of partnership

being all the members of (d)

none of us being limited partners,

("the partnership"),

(e) Insert trading name, business address and nature of partnership business subject to this petition

(e)

and being unable to pay our debts, petition the court that bankruptcy order s be made against us and that the trustee of our estates wind up the partnership business and administer the partnership property.

Signature _____

(member of partnership)

Date _____

Note:

This petition must be accompanied by an affidavit made by the partner who signs the petition showing that all the partners concur in the presentation of the petition.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order specifies the provisions of the Insolvency (Northern Ireland) Order 1989 (“the Insolvency Order”) which apply to insolvent partnerships and the modifications to certain of those provisions. This Order only applies where an insolvent partnership is being wound up and does not affect the winding up of corporate partners and the bankruptcy of individual partners where the partnership itself is not being wound up. These can take place under the Insolvency Order in the normal manner. This Order also applies certain provisions of the Companies (Northern Ireland) Order 1989.

This Order makes the following provisions—

1. An insolvent partnership may be wound up under Part VI of the Insolvency Order as an unregistered company without involving the insolvency of the partners. The provisions of Part VI of the Insolvency Order that apply with relevant modifications are specified in Schedule 1 to this Order. These include Article 185(1), which applies all the provisions of the Insolvency Order and the Companies (Northern Ireland) Order 1986 about winding up with exceptions and additions, and Article 185(4), which provides that the partnership can only be wound up by the High Court (Article 7).

2. An insolvent partnership may be wound up under Part VI of the Insolvency Order as an unregistered company involving the insolvency of two or more partners. Articles 184 and 185 are applied with modifications and this involves the application of all the provisions of the Insolvency Order and the Companies (Northern Ireland) Order 1986 about winding up by the High Court with exceptions and additions and with the modifications in Part I of Schedule 2 to this Order (Article 8(1)).

3. This Order also provides for the winding up of corporate partners and the bankruptcy of individual partners of an insolvent partnership in conjunction with the winding up of the partnership as an unregistered company under Part VI of the Insolvency Order. The provisions of the Insolvency Order about winding up by the High Court apply with the modifications specified in Part II of Schedule 2 to this Order and the provisions about bankruptcy apply with the modifications specified in Part III of that Schedule (Article 8(2)).

Petitions cannot be presented under Part IX of the Insolvency Order (bankruptcy) against the partnership or against the individual partners in the name of the firm (paragraph 2 of Part III of Schedule 2). Provisions are also made concerning priority of expenses and debts (Articles 9 and 10).

4. The provisions of Parts II and VIII of the Insolvency Order dealing with voluntary arrangements are applied in relation to corporate and individual members of an insolvent partnership respectively, if the proposal made for a composition or scheme of arrangement includes all the creditors of the partnership (Article 11).

5. This Order also makes provisions in respect of insolvency proceedings against members of an insolvent partnership not involving the winding up of the partnership as an unregistered company (Articles 13 and 14).

6. This Order also makes transitional provisions such that the law in operation immediately before the date on which this Order comes into operation shall continue where a petition was presented before that date, or bankruptcy proceedings were pending on that date. (This includes where a debtor's summons has been served against the partnership or a member of it.) (Article 15).