

---

## EXPLANATORY NOTE

*(This note is not part of the Order.)*

This Order amends the Insolvent Partnerships Order (Northern Ireland) 1995 ([S.R. 1995 No. 225](#)) (the “1995 Order”).

The following are the main changes made to the 1995 Order:

1. Article 3 makes a change to the definition of the expression “act as insolvency practitioner” in Article 3 of the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)) as modified by Article 14 of the 1995 Order in relation to insolvent partnerships. It provides for acting as a nominee in a voluntary arrangement in relation to an insolvent partnership to be included within that expression.

2. Article 4 amends Article 4(1) of the 1995 Order, the amended Article applies Part II of the Insolvency (Northern Ireland) Order 1989, together with Schedule A1 to that Order, to insolvent partnerships. Part II and certain provisions of Schedule A1 are set out in modified form in Schedule 1 to this Order. Schedule A1 to the Insolvency (Northern Ireland) Order 1989, introduced by the Insolvency (Northern Ireland) Order 2002 ([S.I. 2002/3152 \(N.I. 6\)](#)), provides for a moratorium for small companies in financial difficulty.

3. Article 5 provides that Article 19 of the 1995 Order does not affect the moratorium under paragraph 23 of Schedule A1 to the Insolvency (Northern Ireland) Order 1989.

4. Article 6 and Part I of Schedule 1 make amendments to the existing partnership voluntary arrangement (PVA) procedure set out in Schedule 1 to the 1995 Order which is currently applied to insolvent partnerships. The changes made include technical amendments, making it an offence for an officer of a partnership or of a corporate member to make false representations in order to obtain the approval of a voluntary arrangement (for the insolvent partnership or its members). The introduction of this offence brings the existing PVA procedure into line with that provided for companies in the new moratorium procedure introduced by the Insolvency (Northern Ireland) Order 2002. By virtue of the insertion of Article 14A (as modified) into that Schedule it also makes the new moratorium for small companies mentioned above available to insolvent partnerships.

5. Article 7 provides for the expression “partnership” to include a partnership in relation to which an administration order may be made by virtue of the Council Regulation ([EC](#)) No. 1346/2000 of 29th May 2000 on insolvency proceedings (a similar provision is included in relation to partnership voluntary arrangements in modified Part II of the Order). It also provides that the amendments made to Articles 23 and 24 of the Insolvency (Northern Ireland) Order 1989 by Article 7 of the Insolvency (Northern Ireland) Order 2002 (which restricts the exercise of the right of peaceable re-entry by landlords or others in relation to property let to a company) are applied (as modified) to partnerships.

6. The Insolvency (Northern Ireland) Order 2002 amended the Insolvency (Northern Ireland) Order 1989 to provide that where a voluntary arrangement does not have effect at the end of the moratorium, creditors of a company may petition for its winding up. Articles 8 and 9 apply this new ground for the making of a winding up order to insolvent partnerships and for the making of winding up orders or bankruptcy orders against their members, as the case may be.

7. Article 10 provides for the replacement of Forms 5, 6 and 7 in the 1995 Order with amended forms. The amendment provides for the new ground for making winding up orders or bankruptcy orders. The new forms are to be found in Schedule 2 to this Order.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**8.** Article 11 makes transitional provisions for the PVA moratorium procedure and for the exercise of landlord's rights of re-entry where a partnership is subject to an administration order. The provisions are similar to those provided for companies.

**9.** The cost to business of compliance with the provisions of the Insolvency (Northern Ireland) Order 2002 is detailed in the Regulatory Impact Assessment prepared for that Order. Copies of the Assessment are available from the Legislation Unit, the Insolvency Service, Fermanagh House, Belfast BT2 8NJ and from the Department's website @[www.detini.gov.uk](http://www.detini.gov.uk) under "Publications".