

**EXPLANATORY MEMORANDUM TO
THE INSOLVENT PARTNERSHIPS (AMENDMENT) ORDER (NORTHERN
IRELAND) 2006**

2006 No. 515

1. 1.1 This explanatory memorandum has been prepared by the Department of Enterprise, Trade and Investment (as the Department with lead responsibility for insolvency matters in Northern Ireland) on behalf of the Northern Ireland Court Service and is laid before Parliament by Command of Her Majesty
- 1.2 This explanatory memorandum contains information for the House of Lords Select Committee on Statutory Instruments.
2. **Description**
 - 2.1 The main piece of primary legislation applying to insolvency in Northern Ireland is the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (“the 1989 Order”). Necessary modification to allow the 1989 Order to apply to partnerships were made by the Insolvent Partnerships Order (Northern Ireland) 1995 (S.R. 1995 No. 225) (“the 1995 Order”).
 - 2.2 This instrument updates the 1995 Order to take account of changes made to the 1989 Order by the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)) (“the 2005 Order”).
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Various amendments were made to the 1989 Order by the 2005 Order. Among the major changes to insolvency law were,
 - the setting of a threshold value below which it will not be possible for a trustee to claim a bankrupt’s equity in his dwelling house
 - restoration to the ownership of the bankrupt of his equity in his dwelling house if the equity is not dealt with by his trustee within three years from the date of his bankruptcy
 - insertion of a replacement Part III and new schedule B1 into the 1989 Order creating an enhanced administration procedure designed to facilitate company rescue
 - 4.2 The Insolvent Partnerships Order (Northern Ireland) Order 1995 applies various provisions in the 1989 Order, with modifications, to partnerships.

- 4.3 The application of certain provisions in the 1989 Order to partnerships needs to be adjusted to take account of the fact that the 1989 Order has been amended by the 2005 Order.
- 4.4 The powers to make the Insolvent Partnerships (Amendment) Order (Northern Ireland) 2006 are contained in Article 364 of the Insolvency (Northern Ireland) Order 1989 and Article 24 of the Company Directors Disqualification (Northern Ireland) Order 2002. These powers are exercised by the Lord Chancellor with the concurrence of the Lord Chief Justice for Northern Ireland and the Department of Enterprise, Trade and Investment. An order made under those Articles is subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument.

5. Territorial Extent and Application

- 5.1 This instrument applies to Northern Ireland.
- 5.2 This instrument is in parity with the Insolvent Partnerships (Amendment) Order 2005 (S.I. 2005/1516) applying in Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 This Order follows on from the package of reforms to corporate insolvency law introduced by the 2005 Order, which aim to encourage the rescue of viable companies that get into financial difficulty. Extensive consultation was carried out in respect of the 2005 Order with a wide range of interests including politicians, insolvency practitioners, the courts, and advice groups. No adverse responses were received.
- 7.2 It is intended that the subordinate legislation applying to insolvent partnerships in Northern Ireland will be the subject of a consolidation exercise within the next three years.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 There is no impact on the public sector.

9. Contact

- 9.1 Jack Reid of the Insolvency Service, Department of Enterprise, Trade and Investment Tel: 028 90548543 or email: jack.reid@detini.gov.uk can answer any queries regarding the instrument.