

2016 No. 203 (C. 13)

INSOLVENCY

The Insolvency (Amendment) (2016 Act) (Commencement No. 1 and Transitional Provisions) Order (Northern Ireland) 2016

Made - - - -

30th March 2016

The Department of Enterprise, Trade and Investment^(a) makes the following order in exercise of the powers conferred by section 28(2) and (3) of the Insolvency (Amendment) Act (Northern Ireland) 2016^(b).

Citation and interpretation

1.—(1) This Order may be cited as the Insolvency (Amendment) (2016 Act) (Commencement No. 1 and Transitional Provisions) Order (Northern Ireland) 2016.

(2) In this Order “the Act” means the Insolvency (Amendment) Act (Northern Ireland) 2016.

Appointed Day

2. The day appointed for the coming into operation of the following provisions of the Act is 1st April 2016—

- (a) section 7 (powers of liquidator exercisable with or without sanction in a winding up);
- (b) section 8 (powers of trustee exercisable with or without sanction in a bankruptcy);
- (c) section 9 (definition of debt);
- (d) section 10 (treatment of liabilities relating to contracts of employment);
- (e) section 11 (deeds of arrangement);
- (f) section 13 (after-acquired property of bankrupt);
- (g) section 14 (authorisation of insolvency practitioners);
- (h) section 15 (regulatory objectives);
- (i) section 16 (oversight of recognised professional bodies);
- (j) section 17 (recognised professional bodies: revocation of recognition);
- (k) section 18 (court sanction of insolvency practitioners in public interest cases);
- (l) section 19 (power for Department to obtain information);
- (m) section 20 (compliance orders);
- (n) section 21 (power to establish single regulator of insolvency practitioners);
- (o) section 22 (regulations under section 21: designation of existing body);

^(a) Formerly the Department of Economic Development; see S.I. 1999/283 (N.I. 1), Article 3(5)

^(b) 2016 c. 2 (N.I.)

- (p) section 23 (power to make regulations);
- (q) section 24 (company arrangement or administration provision to apply to a credit union);
- (r) section 25 (disqualification from office: duty to consult the Lord Chief Justice);
- (s) Schedule 1 (single regulator of insolvency practitioners: supplementary provision);
- (t) In Schedule 2 (transitional provisions), paragraphs 4 to 16 and section 27(1) insofar as it relates to those paragraphs;
- (u) In Schedule 3 (minor and consequential amendments) —
 - (i) paragraphs 1 to 15;
 - (ii) paragraphs 17 to 19; and
 - (iii) section 27(2) insofar as it relates to those paragraphs;
- (v) In Schedule 4 (repeals)—
 - (i) The repeals made to the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985(a).
 - (ii) In the Insolvency (Northern Ireland) Order 1989(b),
 - (aa) Articles 2(2), 3(2)(b), 4(5)(a), 5(1), 9(1), 9(3), 14(2), 15(4), 17(2) 20(5), 31(10), 54(2D), 185(2), Part 8, Chapter 1, 234(3), 237D(6), 280, 343(1) 344, 348(1A), 348A, 351 to 354, and in Article 362(1)(a) the entries relating to Articles 21595) and 221(4);
 - (bb) Paragraphs 38(1), 41(2), 43(1), and 49(6) of Schedule A1;
 - (cc) Paragraph 100(6)(d) of Schedule B1, but not the “and “ following it;
 - (dd) Paragraph (3) of Part 1 of Schedule 2;
 - (ee) Paragraphs (6) and (8) of Schedule 3;
 - (ff) Paragraph 15(b) of Schedule 4 and the preceding “and”;
 - (gg) Paragraph (6) of Schedule 6 and the cross-heading preceding that paragraph;
 - (hh) Paragraphs 25(a) and (c) and 28 of Schedule 6
 - (ii) Schedule 7, the entry relating to Article 218(1);
 - (jj) Paragraph 17 of Schedule 8 and the cross-heading preceding that paragraph.
 - (iii) The repeals made to Article 28(1) of the Licensing (Northern Ireland) Order 1996(c)
 - (iv) In the Insolvency (Northern Ireland) Order 2002(d), Article 6(2) and (3).
 - (v) In the Pensions (Northern Ireland) Order 2005(e), Article 105(2)(c);
 - (vi) Section 27(3) insofar as it relates to the repeals made to the legislation listed in sub-paragraphs (i) to (v).

Transitional provisions

3. Articles 350O to 350R (Direct sanctions orders) of the Insolvency (Northern Ireland) Order 1989 (as inserted by section 18 of the Act) apply in respect of conduct of an individual acting as an insolvency practitioner where that conduct occurs on or after 1st April 2016 notwithstanding the date of the individual’s authorisation to act as an insolvency practitioner or appointment as office holder in a particular insolvency

(a) S.I. 1985/1204 (N.I. 11)
 (b) S.I. 1989/2405 (N.I. 19)
 (c) S.I. 1996/3158 (N.I. 22)
 (d) S.I. 2002/3152 (N.I. 6)
 (e) S.I. 2005/255 (N.I. 1)

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 30th
March 2016



Wendy Johnston
A senior officer of the Department of Enterprise, Trade and Investment

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings the provisions in the Insolvency (Amendment) Act (Northern Ireland) 2016 (“the Act”) listed in that Article into operation on 1 April 2016. A reference in this Note to a section is to a section of the Act unless otherwise stated.

Section 7 allows liquidators to reach compromises over calls, debts and claims due to companies without having to seek sanction from the Court, creditors or company members.

Section 8 allows trustees in bankruptcy to refer to arbitration or to compromise debts and claims due to bankrupts without having to seek sanction from the Court, creditors or the Department of Enterprise, Trade and Investment.

Section 9 establishes criteria for deciding whether liabilities in tort are provable in bankruptcy, company liquidations and administrations. This section also lays down rules for determining the date up to which debts incurred by companies which have successively been in liquidation and administration or vice versa are to be treated as debts for the purposes of the Insolvency (Northern Ireland) Order 1989 (“the Insolvency Order”)

Section 10 repeals provisions in the Insolvency Order under which arrears due in respect of a type of employee holiday scheme (which no longer exists) were to be treated as wages or salary.

Section 11 repeals Chapter 1 of Part 8 of the Insolvency Order which dealt with deeds of arrangement.

Section 13 amends Article 280 of the Insolvency Order to facilitate banks offering accounts to undischarged bankrupts.

Section 14 amends Part 12 of the Insolvency Order to introduce a new regime for the full and partial authorisation of insolvency practitioners.

Sections 15 to 22 make provision relating to the regulation of insolvency practitioners and introduce Schedule 1 which makes supplementary provision in relation to regulations designating a body as a single regulator of insolvency practitioners.

Section 23 amends Article 363 of the Insolvency (Northern Ireland) Order 1989 to give the Department power to make regulations to give effect to Part 12 of that Order.

Section 24 amends Article 10(2) of the Insolvency (Northern Ireland) Order 2005^(a) to make it possible for the Department to make orders enabling societies registered under the Credit Unions (Northern Ireland) Order 1985 as well as societies registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 to enter a company arrangement or administration.

Section 25 amends Article 24(7) of the Insolvency (Northern Ireland) Order 2005 to create a requirement for the Lord Chief Justice to be consulted about the making of orders creating a right of appeal to a court in respect of discretionary decisions to disqualify bankrupts from offices or positions.

The provisions in Schedule 2 which are commenced by Article 2 of this Order make transitional provisions in respect of sections 7, 8 9 and paragraph (5) of section 14.

The provisions in Schedule 3 which are commenced by Article 2 of this Order make minor and consequential amendments to the Solicitors (Northern Ireland) Order 1976^(b) and to the Insolvency (Northern Ireland) Order 1989.

(a) S.I. 2005/1455 (N.I. 10)

(b) S.I. 1976/582 (N.I. 12)

Schedule 4 insofar as it is commenced by Article 2 of this Order makes various repeals to the Insolvency (Northern Ireland) Orders 1989 and 2002, the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, the Licensing (Northern Ireland) Order 1996, and the Pensions (Northern Ireland) 2005.

Article 3 of this Order makes transitional provisions with respect to Articles 350O to 350R inserted into the Insolvency Order by section 18.

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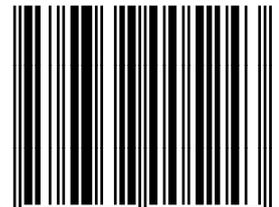
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