



Serious Crime Act 2007

2007 CHAPTER 27

PART 1

SERIOUS CRIME PREVENTION ORDERS

Enforcement

28 Powers to wind up companies etc: Northern Ireland

- (1) The Director of Public Prosecutions for Northern Ireland may present a petition to the court for the winding up of a company, partnership or relevant body if—
- the company, partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - the Director of Public Prosecutions for Northern Ireland considers that it would be in the public interest for the company, partnership or (as the case may be) relevant body to be wound up.

- [^{F1}(1A) The Chief Constable of the Police Service of Northern Ireland may present a petition to the court for the winding up of a company, partnership or relevant body if—
- the company, partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order that was made on the application of the Chief Constable; and
 - the Chief Constable considers that it would be in the public interest for the company, partnership or (as the case may be) relevant body to be wound up.]

- (2) The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19)) applies in relation to—
- a petition under this section for the winding up of a company; and
 - the company's winding up;

as it applies in relation to a petition under Article 104A of the Order of 1989 for the winding up of a company and the company's winding up (winding up on grounds of public interest) but subject to the modifications in subsections (3) and (4).

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- (3) Article 104(5)(b) of the Order of 1989 (application for winding up) applies in relation to a petition under this section as if it permits the petition to be presented by the Director of Public Prosecutions for Northern Ireland [^{F2}or the Chief Constable of the Police Service of Northern Ireland].
- (4) The court may make an order under Article 105 of the Order of 1989 (powers of court on hearing of petition) to wind up the company only if—
- (a) the company has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the company to be wound up.
- (5) Article 364 of the Order of 1989 (power to make provision about insolvent partnerships) applies for the purposes of this section as if the reference to an insolvent partnership were a reference to a partnership to which this section applies.
- (6) The appropriate Minister may by order provide for the Order of 1989 to apply, with such modifications as that person considers appropriate, in relation to a petition under this section for the winding up of a relevant body and the relevant body's winding up.
- (7) An order made by virtue of subsection (5) or (6) must ensure that the court may make an order to wind up the partnership or relevant body only if—
- (a) the partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the partnership or relevant body to be wound up.
- (8) No petition may be presented, or order to wind up made, by virtue of this section if—
- (a) an appeal against conviction for the offence concerned has been made and not finally determined; or
 - (b) the period during which such an appeal may be made has not expired.
- (9) No petition may be presented, or order to wind up made, by virtue of this section if the company, partnership or relevant body is already being wound up by the court.
- (10) In deciding for the purposes of subsection (8) whether an appeal is finally determined or whether the period during which an appeal may be made has expired, any power to appeal out of time is to be ignored.
- (11) In this section—
- “appropriate Minister” means—
- (a) in relation to a relevant body falling within paragraph (a) or (b) of the definition of “relevant body” below, the Treasury; and
 - (b) in relation to any other relevant body, the [^{F3}Department of Justice in Northern Ireland];
- [^{F4}“company” means—
- (a) a company registered under the Companies Act 2006 in Northern Ireland, or
 - (b) an unregistered company within the meaning of Part 6 of the Insolvency (Northern Ireland) Order 1989 (see Article 184 of that Order),]
- “the court ” means the High Court in Northern Ireland;

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“ an industrial and provident society ” means a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24) or a society deemed by virtue of section 4 of that Act to be so registered;

“ partnership ” does not include a relevant body; and

“ relevant body ” means—

- (a) a building society (within the meaning of the Building Societies Act 1986 (c. 53));
- (b) an incorporated friendly society (within the meaning of the Friendly Societies Act 1992 (c. 40));
- (c) an industrial and provident society;
- (d) a limited liability partnership; or
- (e) such other description of person as may be specified by order made by the [^{F5}Department of Justice in Northern Ireland];

and the references to Articles 104 to 105 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19)) include references to those Articles as applied by Article 185(1) of that Order (unregistered companies).

Textual Amendments

- F1** S. 28(1A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(t), **Sch. 12 para. 9(2)**
- F2** Words in s. 28(3) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(t), **Sch. 12 para. 9(3)**
- F3** Words in s. 28(11) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 10 para. 5(2)(a)** (with arts. 28-31)
- F4** Words in s. 28(11) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941) , art. 1(2) , **Sch. 1 para. 265(3)** (with art. 10)
- F5** Words in s. 28(11) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 10 para. 5(2)(b)** (with arts. 28-31)

Commencement Information

- I1** S. 28 in force at 6.4.2008 by S.I. 2008/755 , **art. 15(1)(f)**

Changes to legislation:

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