

SCHEDULES

SCHEDULE 7

MORATORIUMS IN NORTHERN IRELAND: FURTHER AMENDMENTS

The Insolvency (Northern Ireland) Order 1989

- 17 Before Article 149 (and before the italic heading “Preferential debts” above that Article) insert—

“Moratorium: order of priority of payment of debts

Moratorium debts etc: priority

148A(1) This Article applies where proceedings for the winding up of a company are begun before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part 1A.

(2) In the winding up, the following are payable out of the company’s assets (in the order of priority shown) in preference to all other claims—

- (a) any prescribed fees or expenses of the official receiver acting in any capacity in relation to the company;
- (b) moratorium debts and priority pre-moratorium debts.

(3) In paragraph (2)(b) “priority pre-moratorium debt” means—

- (a) any pre-moratorium debt that is payable in respect of—
 - (i) the monitor’s remuneration or expenses,
 - (ii) goods or services supplied during the moratorium,
 - (iii) rent in respect of a period during the moratorium, or
 - (iv) wages or salary arising under a contract of employment, so far as relating to a period of employment before or during the moratorium,
- (b) any pre-moratorium debt that—
 - (i) consists of a liability to make a redundancy payment, and
 - (ii) fell due before or during the moratorium, and
- (c) any pre-moratorium debt that—
 - (i) arises under a contract or other instrument involving financial services,
 - (ii) fell due before or during the moratorium, and
 - (iii) is not relevant accelerated debt (see paragraph (4)).

(4) For the purposes of paragraph (3)(c)—

“relevant accelerated debt” means any pre-moratorium debt that fell due during the relevant period by reason of the operation of,

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or the exercise of rights under, an acceleration or early termination clause in a contract or other instrument involving financial services;

“the relevant period” means the period—

- (a) beginning with the day on which the statement under Article 13BC(1)(e) is made, and
 - (b) ending with the last day of the moratorium.
- (5) The rules may make provision as to the order in which the debts mentioned in paragraph (2)(b) rank among themselves in a case where the assets of the company are insufficient to meet them in full.
- (6) Regulations may amend this Article for the purposes of changing the definition of “moratorium debt” or “priority pre-moratorium debt” in this Article.
- (7) Regulations under paragraph (6) may make consequential, supplementary, incidental or transitional provision or savings.
- (8) Regulations may not be made under paragraph (6) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (9) For the purposes of this Article proceedings for the winding up of a company are begun when—
- (a) a winding-up petition is presented, or
 - (b) a resolution for voluntary winding up is passed.
- (10) Any rules made under Article 13D(4) (meaning of supply of goods or services) apply also for the purposes of paragraph (3)(a)(ii) of this Article.
- (11) In this Article—
- “acceleration or early termination clause”, in relation to a contract or other instrument involving financial services, means a provision of the contract or other instrument—
- (a) under which, on the happening of an event—
 - (i) a debt or other liability falls due earlier than it otherwise would, or
 - (ii) a debt or other liability is terminated and replaced by another debt or liability, or
 - (b) which confers on a party a right which, if exercised, will result in —
 - (i) a debt or other liability falling due earlier than it otherwise would, or
 - (ii) a debt or other liability being terminated and replaced by another debt or liability;
- “contract or other instrument involving financial services” has the same meaning as it has for the purposes of Article 13D (see Schedule ZA2);
- “monitor’s remuneration or expenses” has the meaning given by Article 13D;
- “moratorium debt” has the meaning given by Article 13HD;
- “pre-moratorium debt” has the meaning given by Article 13HD;

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“redundancy payment” has the meaning given by Article 13D;
“wages or salary” has the meaning given by Article 13D.”