

Insolvency (Amendment) Bill

[AS INTRODUCED]

CONTENTS

Provisions relating to communication

1. Attendance at meetings and use of websites
2. References to things in writing

Requirements relating to meetings

3. Removal of requirement for annual meetings in a members' voluntary and a creditors' voluntary winding up
4. Requirements in relation to meetings under Articles 81 and 84 of the Insolvency Order

Reports in individual voluntary arrangements

5. Individual voluntary arrangements: removal of requirement to submit a nominee's report to the High Court
6. Fast-track voluntary arrangements: notification of the Department

Powers of liquidator and trustee

7. Powers of liquidator exercisable with or without sanction in a winding up
8. Powers of trustee exercisable with or without sanction in a bankruptcy

Miscellaneous

9. Definition of debt
10. Treatment of liabilities relating to contracts of employment
11. Deeds of arrangement
12. Bankruptcy: early discharge procedure
13. After-acquired property of bankrupt
14. Authorisation of insolvency practitioners
15. Power to make regulations
16. Company arrangement or administration provision to apply to a credit union
17. Disqualification from office: duty to consult the Lord Chief Justice

Supplementary

18. Interpretation
19. Transitional provisions, minor and consequential amendments and repeals
20. Commencement
21. Short title

SCHEDULES:

Schedule 1	Transitional provisions
Schedule 2	Minor and consequential amendments
Schedule 3	Repeals

A

B I L L

TO

Amend the law relating to insolvency; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Provisions relating to communication

Attendance at meetings and use of websites

1.—(1) In Part 7 of the Insolvency Order, after Article 208 (unenforceability of liens on books, etc.) insert—

5 *“Remote attendance at meetings*

Remote attendance at meetings: company insolvency

208ZA.—(1) This Article applies to—

- (a) any meeting of the creditors of a company summoned under this Order or the rules; or
- 10 (b) any meeting of the members or contributories of a company summoned by the office-holder under this Order or the rules, other than a meeting of the members of a company in a members’ voluntary winding up.

(2) Where the person summoning a meeting (“the convener”) considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

15

(3) Where a meeting is conducted and held in the manner referred to in paragraph (2), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.

20

(4) For the purposes of this Article—

Insolvency (Amendment)

(a) a person is able to exercise the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting; and

5 (b) a person is able to exercise the right to vote at a meeting when—
(i) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
(ii) that person's vote can be taken into account in determining
10 whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

(5) The convener of a meeting which is to be conducted and held in the manner referred to in paragraph (2) shall make whatever arrangements the convener considers appropriate to—

15 (a) enable those attending the meeting to exercise their rights to speak or vote; and
(b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.

(6) Where in the reasonable opinion of the convener—

20 (a) a meeting will be attended by persons who will not be present together at the same place, and
(b) it is unnecessary or inexpedient to specify a place for the meeting,
any requirement under this Order or the rules to specify a place for the meeting may be satisfied by specifying the arrangements the convener proposes to enable persons to exercise their rights to speak or vote.

25 (7) In making the arrangements referred to in paragraph (5) and in forming the opinion referred to in paragraph (6)(b), the convener must have regard to the legitimate interests of the creditors, members or contributories and others attending the meeting in the efficient despatch of the business of the meeting.

30 (8) If—

(a) the notice of a meeting does not specify a place for the meeting,
(b) the convener is requested in accordance with the rules to specify a place for the meeting, and
(c) that request is made—
35 (i) in the case of a meeting of creditors or contributories, by not less than 10 per cent. in value of the creditors or contributories, or
(ii) in the case of a meeting of members, by members representing
40 not less than 10 per cent. of the total voting rights of all the members having at the date of the request a right to vote at the meeting,

it shall be the duty of the convener to specify a place for the meeting.

(9) In this Article, "the office-holder", in relation to a company, means—

Insolvency (Amendment)

- (a) its liquidator, provisional liquidator, administrator, or administrative receiver; or
- (b) where a voluntary arrangement in relation to the company is proposed or has taken effect under Part 2, the nominee or the supervisor of the voluntary arrangement.

5

Use of websites

Use of websites: company insolvency

208ZB.—(1) Where any provision of this Order or the rules requires the office-holder to give, deliver, furnish or send a notice or other document or information to any person, that requirement is satisfied by making the notice, document or information available on a website—

10

- (a) in accordance with the rules; and
- (b) in such circumstances as may be prescribed.

(2) In this Article, “the office-holder” means—

15

- (a) the liquidator, provisional liquidator, administrator, or administrative receiver of a company; or
- (b) where a voluntary arrangement in relation to a company is proposed or has taken effect under Part 2, the nominee or the supervisor of the voluntary arrangement.”.

(2) In Part 10 of the Insolvency Order, after Article 345 (formal defects) insert—

“Remote attendance at meetings

Remote attendance at meetings: individual insolvency

345A.—(1) Where—

25

- (a) a bankruptcy order is made against an individual or an interim receiver of an individual’s property is appointed, or
- (b) a voluntary arrangement in relation to an individual is proposed or is approved under Chapter 2 of Part 8,

this Article applies to any meeting of the individual’s creditors summoned under this Order or the rules.

30

(2) Where the person summoning a meeting (“the convener”) considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

(3) Where a meeting is conducted and held in the manner referred to in paragraph (2), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.

35

(4) For the purposes of this Article—

- (a) a person exercises the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting,

40

Insolvency (Amendment)

during the meeting, any information or opinions which that person has on the business of the meeting; and

(b) a person exercises the right to vote at a meeting when—

(i) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

(ii) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

(5) The convener of a meeting which is to be conducted and held in the manner referred to in paragraph (2) shall make whatever arrangements the convener considers appropriate to—

(a) enable those attending the meeting to exercise their rights to speak or vote; and

(b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.

(6) Where in the reasonable opinion of the convener—

(a) a meeting will be attended by persons who will not be present together at the same place, and

(b) it is unnecessary or inexpedient to specify a place for the meeting, any requirement under this Order or the rules to specify a place for the meeting may be satisfied by specifying the arrangements the convener proposes to enable persons to exercise their rights to speak or vote.

(7) In making the arrangements referred to in paragraph (5) and in forming the opinion referred to in paragraph (6)(b), the convener must have regard to the legitimate interests of the creditors and others attending the meeting in the efficient despatch of the business of the meeting.

(8) If—

(a) the notice of a meeting does not specify a place for the meeting,

(b) the convener is requested in accordance with the rules to specify a place for the meeting, and

(c) that request is made by not less than 10 per cent. in value of the creditors,

it shall be the duty of the convener to specify a place for the meeting.

Use of websites

Use of websites: individual insolvency

345B.—(1) This Article applies where—

(a) a bankruptcy order is made against an individual or an interim receiver of an individual's property is appointed, or

(b) a voluntary arrangement in relation to an individual is proposed or is approved under Chapter 2 of Part 8,

and "the office-holder" means the official receiver, the trustee in bankruptcy, the interim receiver, the nominee or the supervisor of the voluntary arrangement, as the case may be.

Insolvency (Amendment)

(2) Where any provision of this Order or the rules requires the office-holder to give, deliver, furnish or send a notice or other document or information to any person, that requirement is satisfied by making the notice, document or information available on a website—

- 5 (a) in accordance with the rules; and
 (b) in such circumstances as may be prescribed.”.

References to things in writing

2.—(1) After Article 2A of the Insolvency Order (proceedings under EC Regulation: modified definition of property) insert—

10 **“References to things in writing**

2B.—(1) A reference in this Order to a thing in writing includes that thing in electronic form.

(2) Paragraph (1) does not apply to the following provisions—

- 15 (a) Article 97(2) (dissent from arrangement under Article 96);
 (b) Article 103(1) (definition of inability to pay debts; the statutory demand);
 (c) Article 186(1) (inability to pay debts: unpaid creditor for £750 or more);
20 (d) Article 187 (inability to pay debts: debt remaining unsatisfied after action brought); and
 (e) Article 242(1) and (2) (definition of “inability to pay”, etc.; the statutory demand).”.

(2) Paragraph 1(2) of Schedule B1 to the Insolvency Order (interpretation) is repealed.

25 *Requirements relating to meetings*

Removal of requirement for annual meetings in a members’ voluntary and a creditors’ voluntary winding up

3.—(1) For Article 79 of the Insolvency Order (general company meeting at each year’s end) substitute—

30 **“Progress report to company at year’s end**

79.—(1) Subject to Articles 82 and 88, in the event of the winding up of a company continuing for more than one year, the liquidator must—

- 35 (a) for each prescribed period produce a progress report relating to the prescribed matters; and
 (b) within such period commencing with the end of the period referred to in sub-paragraph (a) as may be prescribed send a copy of the progress report to—
 (i) the members of the company; and
 (ii) such other persons as may be prescribed.

Insolvency (Amendment)

(2) A liquidator who fails to comply with this Article shall be guilty of an offence.”.

(2) For Article 91 of the Insolvency Order (meetings of company and creditors at each year’s end) substitute—

5 **“Progress report to company and creditors at year’s end**

91.—(1) If the winding up of a company continues for more than one year, the liquidator must—

(a) for each prescribed period produce a progress report relating to the prescribed matters; and

10 (b) within such period commencing with the end of the period referred to in sub-paragraph (a) as may be prescribed send a copy of the progress report to—

(i) the members and creditors of the company; and

(ii) such other persons as may be prescribed.

15 (2) A liquidator who fails to comply with this Article shall be guilty of an offence.”.

(3) In Schedule 7 to the Insolvency Order (punishment of offences)—

(a) for the entry relating to Article 79(3) substitute—

20	“79(2)	Liquidator failing to send progress report to members at year’s end.	Summary.	Level 3 on the standard scale.”;
----	--------	--	----------	----------------------------------

(b) for the entry relating to Article 91(3) substitute—

	“91(2)	Liquidator failing to send progress report to members and creditors at year’s end.	Summary.	Level 3 on the standard scale.”.
--	--------	--	----------	----------------------------------

25 **Requirements in relation to meetings under Articles 81 and 84 of the Insolvency Order**

4. In Articles 81(2)(b)(i) and 84(1)(b)(i) of the Insolvency Order (notice of meeting of creditors), the words “by post” are repealed.

Reports in individual voluntary arrangements

30 **Individual voluntary arrangements: removal of requirement to submit a nominee’s report to the High Court**

5.—(1) In Article 230A of the Insolvency Order (debtor’s proposal and nominee’s report)—

(a) in paragraph (2), for “to the High Court” substitute “under paragraph (3)”;

35 (b) in paragraph (3), for “report to the Court” substitute “report to the debtor’s creditors”.

(2) In Article 231 of the Insolvency Order (summoning of creditors’ meeting), for paragraph (1) substitute—

Insolvency (Amendment)

“**(1)** Where it has been reported to the High Court under Article 230 or to the debtor’s creditors under Article 230A that a meeting of the debtor’s creditors should be summoned, the nominee (or the nominee’s replacement under Article 230(3) or 230A(4)) shall summon that meeting for the time, date and place proposed in the nominee’s report unless, in the case of a report to which Article 230 applies, the High Court otherwise directs.”

(3) In Article 233(2) of the Insolvency Order (report of decisions to court), for “the debtor’s proposal” substitute “a voluntary arrangement proposed under Article 230”.

Fast-track voluntary arrangements: notification of the Department

6. In Article 237C of the Insolvency Order (result) after “Court” insert “, and notify the Department,”.

Powers of liquidator and trustee

Powers of liquidator exercisable with or without sanction in a winding up

7.—(1) Schedule 2 to the Insolvency Order is amended as follows.

(2) In Part 1 (powers exercisable with sanction), paragraph 3 is repealed.

(3) In Part 3 (powers exercisable without sanction in any winding up), after paragraph 7, insert—

“7A. Power to compromise, on such terms as may be agreed—

(a) all calls and liabilities to calls, all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and

(b) subject to paragraph 2 in Part 1 of this Schedule, all questions in any way relating to or affecting the assets or the winding up of the company,

and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.”.

Powers of trustee exercisable with or without sanction in a bankruptcy

8.—(1) Schedule 3 to the Insolvency Order is amended as follows.

(2) In Part 1 (powers exercisable with sanction)—

(a) paragraph 6 is repealed; and

(b) in paragraph 8, the words “or by the trustee on any person” are repealed.

(3) In Part 2 (powers exercisable without sanction), after paragraph 10, insert—

“10A. Power to refer to arbitration, or compromise on such terms as may be agreed, any debts, claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.

Insolvency (Amendment)

10B. Power to make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made by the trustee on any person.”.

5

Miscellaneous

Definition of debt

9.—(1) The Insolvency Order is amended as follows.

(2) In Article 2 (general interpretation), for paragraph (3) substitute—

10 “(3) In determining for the purposes of any provision of this Order whether any liability in tort is a bankruptcy debt, the bankrupt is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.

15 (3A) In determining for the purposes of any provision in this Order whether any liability in tort is a debt provable in the winding up of a company or where a company is in administration, that liability is provable if either—

(a) the cause of action has accrued—

20 (i) in the case of a winding up which was not immediately preceded by an administration, at the date on which the company went into liquidation;

(ii) in the case of a winding up which was immediately preceded by an administration, at the date on which the company entered administration;

25 (iii) in the case of an administration which was not immediately preceded by a winding up, at the date on which the company entered administration;

(iv) in the case of an administration which was immediately preceded by a winding up, at the date on which the company went into liquidation; or

30 (b) all the elements necessary to establish the cause of action exist at that date except for actionable damage.”.

(3) In Article 5(1) (interpretation for Parts 2 to 7), in the definition of “debt”—

(a) for “Article 2(3)” substitute “Article 2(3A)”;

35 (b) in sub-paragraph (a) for the words from “date” to the end substitute “relevant date;”;

(c) in sub-paragraph (b) for “that date” in the first place it occurs substitute “the relevant date”;

(d) in sub-paragraph (c) for the words from “company” to the end substitute “relevant date;”.

40 (4) In Article 5, after paragraph (1) insert—

“(1A) For the purposes of the definition of “debt” in paragraph (1), “the relevant date” means—

Insolvency (Amendment)

- (a) in the case of a winding up which was not immediately preceded by an administration, the date on which the company went into liquidation;
- 5 (b) in the case of a winding up which was immediately preceded by an administration, the date on which the company entered administration;
- (c) in the case of an administration which was not immediately preceded by a winding up, the date on which the company entered administration;
- 10 (d) in the case of an administration which was immediately preceded by a winding up, the date on which the company went into liquidation.”.
- (5) In Article 347 (the relevant date), after paragraph (6) insert—
- 15 “(7) Nothing in this Article affects the definition of “the relevant date” in Article 5(1A).”.

Treatment of liabilities relating to contracts of employment

10.—(1) The Insolvency Order is amended as follows.

(2) In Article 31 (vacation of office by administrator), as continued in operation by virtue of Article 4(1) of the Insolvency (Northern Ireland) Order 2005 (special administration regimes), paragraph (10) is repealed (what “wages or salary” includes for the purposes of paragraph (9)(a)).

20

(3) In Article 54 (receivership: agency and liability for contracts), paragraph (2D) is repealed (what “wages or salary” includes for the purposes of paragraph (2C)(a)).

25 (4) In Schedule B1 (administration of companies) in paragraph 100 (vacation of office by administrator: charges and liabilities), sub-paragraph (6)(d) is repealed (what “wages or salary” includes for the purposes of sub-paragraph (5)(c)) but not the “and” following it.

30 (5) In Schedule 4 (categories of preferential debt), in paragraph 15 (what “wages or salary” includes for the purposes of determining what is a category 5 preferential debt), paragraph (b) is repealed including the preceding “and”.

Deeds of arrangement

11.—(1) Chapter 1 of Part 8 of the Insolvency Order (deeds of arrangement) is repealed.

35 (2) The Department may by order make such amendments (including repeals and revocations) to any statutory provision as it considers appropriate in consequence of this section.

(3) No order may be made under this section unless a draft of the order has been laid before and approved by resolution of the Assembly.

40 Bankruptcy: early discharge procedure

12. Article 253(2) of the Insolvency Order (duration of bankruptcy) is repealed.

After-acquired property of bankrupt

13.—(1) Article 280 of the Insolvency Order (power of trustee in bankruptcy to claim, for the bankrupt’s estate, property which has been acquired by, or has devolved upon, the bankrupt after commencement of the bankruptcy) is amended as follows.

(2) In paragraph (3) (property to vest in trustee on service of notice on bankrupt), for “paragraph 4” substitute “paragraphs (4) and (4A)”.

(3) In paragraph (4) (trustee not entitled to remedy against certain persons and certain bankers)—

(a) omit sub-paragraph (b) (provision about bankers) and the preceding “or”;

(b) in the words after sub-paragraph (b)—

(i) omit “or transaction”;

(ii) omit “or banker” (in both places where the words occur).

(4) After paragraph (4) insert—

“(4A) Where a banker enters into a transaction before the service on the banker of a notice under this Article the trustee is not in respect of that transaction entitled by virtue of this Article to any remedy against the banker.

This paragraph applies whether or not the banker has notice of the bankruptcy.”.

Authorisation of insolvency practitioners

14.—(1) Part 12 of the Insolvency Order (insolvency practitioners and their qualification) is amended as set out in subsections (2) to (5).

(2) In Article 349 (persons not qualified to act as insolvency practitioners), for paragraph (2) substitute—

“(2) A person is not qualified to act as an insolvency practitioner at any time unless at that time the person is appropriately authorised under Article 349A of this Order or section 390A of the Insolvency Act 1986 (authorisation).”.

(3) After Article 349 insert—

“Authorisation

349A.—(1) In this Part—

“partial authorisation” means authorisation to act as an insolvency practitioner—

(a) only in relation to companies, or

(b) only in relation to individuals;

“full authorisation” means authorisation to act as an insolvency practitioner in relation to companies, individuals and insolvent partnerships;

“partially authorised” and “fully authorised” are to be construed accordingly.

Insolvency (Amendment)

(2) A person is fully authorised under this Article to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350(1) and being permitted to act as an insolvency practitioner for all purposes by or under the rules of that body.

5 (3) A person is partially authorised under this Article to act as an insolvency practitioner—

(a) by virtue of being a member of a professional body recognised under Article 350(1) and being permitted to act as an insolvency practitioner in relation only to companies or only to individuals by or under the rules of that body, or

10 (b) by virtue of being a member of a professional body recognised under Article 350(2) and being permitted to act as an insolvency practitioner by or under the rules of that body.

Partial authorisation: acting in relation to partnerships

15 349B.—(1) A person who is partially authorised may not accept an appointment to act as an insolvency practitioner in relation to a company or an individual if at the time of the appointment the person is aware that the company or individual—

(a) is or was a member of a partnership; and

20 (b) has outstanding liabilities in relation to the partnership.

(2) Subject to paragraph (7), a person who is partially authorised may not continue to act as an insolvency practitioner in relation to a company or an individual if the person becomes aware that the company or individual—

25 (a) is or was a member of a partnership, and

(b) has outstanding liabilities in relation to the partnership, unless the person is granted permission to continue to act by the High Court.

(3) The High Court may grant the person permission to continue to act if it is satisfied that the person is competent to do so.

30 (4) A person who is partially authorised and becomes aware as mentioned in paragraph (2) may alternatively apply to the High Court for an order (a “replacement order”) appointing in his or her place a person who is fully authorised to act as an insolvency practitioner in relation to the company or (as the case may be) the individual.

(5) A person may apply to the High Court for permission to continue to act or for a replacement order under—

(a) where acting in relation to a company, Article 143(5B) or this Article;

40 (b) where acting in relation to an individual, Article 276(2C) or this Article.

(6) A person who acts as an insolvency practitioner in contravention of paragraph (1) or (2) is guilty of an offence under Article 348 (acting without qualification).

Insolvency (Amendment)

(7) A person does not contravene paragraph (2) by continuing to act as an insolvency practitioner during the permitted period if, within the period of 7 business days beginning with the day after the day on which the person becomes aware as mentioned in paragraph (2), the person—

- 5 (a) applies to the High Court for permission to continue to act, or
(b) applies to the High Court for a replacement order.

(8) For the purposes of paragraph (7)—

10 “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971;

“permitted period” means the period beginning with the day on which the person became aware as mentioned in paragraph (2) and ending on the earlier of—

- 15 (a) the expiry of the period of 6 weeks beginning with the day on which the person applies to the High Court as mentioned in paragraph (7)(a) or (b), and
(b) the day on which the High Court disposes of the application (by granting or refusing it);

20 “replacement order” has the meaning given by paragraph (4).”.

(4) For Article 350 (recognised professional bodies) substitute—

“Recognised professional bodies

25 350.—(1) The Department may by order declare a body which appears to it to meet the requirements of paragraph (4) to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.

30 (2) The Department may by order declare a body which appears to it to meet the requirements of paragraph (4) to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only.

(3) An order under paragraph (2) must state whether the partial authorisation relates to companies or to individuals.

(4) The requirements are that the body—

- 35 (a) regulates the practice of a profession, and
(b) maintains and enforces rules for securing that its insolvency specialist members—
(i) are fit and proper persons to act as insolvency practitioners, and
(ii) meet acceptable requirements as to education and practical training and experience.

40 (5) The Department must make an order revoking an order under paragraph (1) or (2) in relation to a professional body if it appears to the Department that the body no longer meets the requirements of paragraph (4).

Insolvency (Amendment)

(6) The Department must make an order revoking an order under paragraph (1) and replacing it with an order under paragraph (2) in relation to a professional body if it appears to the Department that the body is capable of providing its insolvency specialist members with partial authorisation only.

(7) An order of the Department under this Article—

(a) shall be subject to negative resolution; and

(b) shall have effect from such date as is specified in the order.

(8) An order revoking an order made under paragraph (1) or (2) may make provision whereby members of the body in question continue to be treated as fully or partially authorised to act as insolvency practitioners (as the case may be) for a specified period after the revocation takes effect.

(9) In this Article—

(a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question (and the references in Article 349A to members of a recognised professional body are to be read accordingly);

(b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.”.

(5) Articles 351 to 354 (authorisation: supplementary provisions) are repealed.

(6) In Article 361A of the Insolvency Order (fees orders (supplementary))—

(a) in paragraph (1)(b) after “Article 350(1)” insert “or (2)”;

(b) after paragraph (1) (fees for grant or maintenance of recognition of professional body) insert—

“(1A) Fees under paragraph (1) may vary according to whether the body is recognised under Article 350(1) (body providing full and partial authorisation) or under Article 350(2) (body providing partial authorisation).”.

(7) An order under Article 350(1) of the Insolvency Order (recognised professional bodies) made before the coming into operation of this section is, following the coming into operation of this section, to be treated as if it were made under Article 350(1) as substituted by subsection (4) of this section.

Power to make regulations

15.—(1) Article 363 of the Insolvency Order (regulations for purposes of Part 12) is amended as follows.

(2) The existing provision becomes paragraph (2) of that Article.

(3) In that paragraph—

(a) after “generality of” insert “paragraph (1) or”;

(b) for “regulations may contain” substitute “regulations under this Article may contain”.

(4) Before that paragraph insert—

Insolvency (Amendment)

“(1) The Department may make regulations for the purpose of giving effect to Part 12 of this Order.”.

Company arrangement or administration provision to apply to a credit union

16. In Article 10(2) of the Insolvency (Northern Ireland) Order 2005 (societies to whom a company arrangement or administration provision may apply) at the end add “or the Credit Unions (Northern Ireland) Order 1985.”.

Disqualification from office: duty to consult the Lord Chief Justice

17. In Article 24(7) of the Insolvency (Northern Ireland) Order 2005, at the end add “; but any such order may only be made after consultation with the Lord Chief Justice where the appeal is to a specified court.”.

Supplementary

Interpretation

18. In this Act—

“the Department” means the Department of Enterprise, Trade and Investment;

15 “the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Transitional provisions, minor and consequential amendments and repeals

19.—(1) Schedule 1 (which makes provision with respect to transition) has effect.

(2) Schedule 2 (which makes minor and consequential amendments) has effect.

(3) The statutory provisions specified in Schedule 3 are repealed to the extent specified.

Commencement

20 20.—(1) This section and sections 18 and 21 come into operation on the day after the day on which this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

30 (3) An order under subsection (2) may contain such transitional or saving provisions as the Department considers appropriate.

Short title

21. This Act may be cited as the Insolvency (Amendment) Act (Northern Ireland) 2014.

SCHEDULES

SCHEDULE 1

Section 19(1).

TRANSITIONAL PROVISIONS

5 *Requirements relating to meetings*

1. The amendments made to Articles 79 and 91 of the Insolvency Order (progress reports in a winding up) by section 3 do not apply in respect of a company in voluntary winding up where the resolution for voluntary winding up was passed before the day on which section 3 comes into operation.

10 2. The amendments made to Articles 81 and 84 of the Insolvency Order by section 4 (notice of creditors' meeting) do not apply in respect of a company in voluntary winding up where the resolution for voluntary winding up was passed before the day on which section 4 comes into operation.

Reports in individual voluntary arrangements

15 3. The amendments made to the Insolvency Order by section 5 do not apply in respect of a proposal for a voluntary arrangement under Part 8 of the Insolvency Order where—

(a) Article 230A of that Order applies; and

20 (b) a person agrees to act as nominee in respect of the proposal before the day on which section 5 comes into operation.

Powers of liquidator

4. The amendments made to Schedule 2 to the Insolvency Order (powers of liquidator in a winding up) by section 7 do not apply in respect of any proceedings under the Insolvency Order where—

25 (a) in the case of a company in voluntary winding up, the resolution for voluntary winding up was passed before the day on which section 7 comes into operation;

30 (b) in the case of a company in voluntary winding up pursuant to paragraph 84 of Schedule B1 to the Insolvency Order (moving from administration to creditors' voluntary liquidation), the company entered the preceding administration before the day on which section 7 comes into operation;

35 (c) in the case of a company in winding up following an order for the conversion of administration or a voluntary arrangement into winding up by virtue of Article 37 of Council Regulation (EC) No. 1346/2000 on insolvency proceedings, the order for conversion was made before the day on which section 7 comes into operation; and

- (d) in the case of a company being wound up by the High Court, the winding up order was made before the day on which section 7 comes into operation.

Powers of trustee

- 5 5. The amendments made to Schedule 3 to the Insolvency Order (powers of trustee in bankruptcy) by section 8 do not apply in respect of any proceedings under the Insolvency Order where—
- (a) the debtor was adjudged bankrupt before the day on which section 8 comes into operation; and
- 10 (b) in the case of a bankruptcy following an order for the conversion of a voluntary arrangement into a bankruptcy by virtue of Article 37 of Council Regulation (EC) No. 1346/2000, the order for conversion was made before the day on which section 8 comes into operation.

Definition of debt

- 15 6. The amendments made to the Insolvency Order by section 9 apply where a company enters administration on or after the relevant day, except where—
- (a) the company enters administration by virtue of an administration order under paragraph 11 of Schedule B1 to the Insolvency Order on an application made before the relevant day;
- 20 (b) the administration is immediately preceded by a voluntary liquidation in respect of which the resolution to wind up was passed before the relevant day;
- (c) the administration is immediately preceded by a liquidation on the making of a winding up order on a petition which was presented before the
- 25 relevant day.
7. The amendments made to the Insolvency Order by section 9 apply where a company goes into liquidation upon the passing on or after the relevant day of a resolution to wind up.
8. The amendments made to the Insolvency Order by section 9 apply where a
- 30 company goes into voluntary liquidation under paragraph 84 of Schedule B1 to the Insolvency Order, except where—
- (a) the company entered the preceding administration before the relevant day; or
- (b) the company entered the preceding administration by virtue of an
- 35 administration order under paragraph 11 of Schedule B1 to the Insolvency Order on an application which was made before the relevant day.
9. The amendments made to the Insolvency Order by section 9 apply where a company goes into liquidation on the making of a winding up order on a petition presented on or after the relevant day, except where the liquidation is immediately
- 40 preceded by—
- (a) an administration under paragraph 11 of Schedule B1 to the Insolvency Order where the administration order was made on an application made before the relevant day;

(b) an administration in respect of which the appointment of an administrator under paragraph 15 or 23 of Schedule B1 to the Insolvency Order took effect before the relevant day; or

5 (c) a voluntary liquidation in respect of which the resolution to wind up was passed before the relevant day.

10 10. In paragraphs 6 to 9, “the relevant day” means the day on which section 9 comes into operation.

Authorisation of insolvency practitioners

11. For the purposes of this paragraph and paragraphs 12 to 16—

10 “the commencement date” is the date on which section 14(5) comes into operation;

“the transitional period” is the period of 1 year beginning with the commencement date.

12. Where, immediately before the commencement date, a person holds an authorisation granted under Article 352 of the Insolvency Order, Article 352(3A) to (6) of that Order together with, for the purposes of this paragraph, sub-paragraphs (a) and (b) of Article 352(2) of that Order (which are repealed by section 14(5)) continue to have effect in relation to the person and the authorisation during the transitional period.

13. During the transitional period, a person to whom paragraph 12 applies is to be treated for the purposes of Part 12 of the Insolvency Order as fully authorised under Article 349A of that Order (as inserted by section 14(3) of this Act) to act as an insolvency practitioner unless and until the person’s authorisation is (by virtue of paragraph 12) withdrawn.

14. Where, immediately before the commencement date, a person has applied under Article 351 of the Insolvency Order for authorisation to act as an insolvency practitioner and the application has not been granted, refused or withdrawn, Article 351(4) to (7) and 352(1) and (2) of that Order (which are repealed by section 14(5)) continue to have effect in relation to the person and the application during the transitional period.

15. Where, during the transitional period, an authorisation is (by virtue of paragraph 14) granted under Article 352 of the Insolvency Order, paragraphs 12 and 13 apply as if—

35 (a) the authorisation had been granted immediately before the commencement date;

(b) in paragraph 12, the reference to Article 352(3A) to (6) were a reference to Article 352(4) to (6).

16. For the purposes of paragraphs 12 and 14, Articles 353 and 354 of the Insolvency Order (which are repealed by section 14(5)) continue to have effect during the transitional period.

SCHEDULE 2

Section 19(2).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Solicitors (Northern Ireland) Order 1976 (NI 12)

5 1. In Article 13(1)(k), for the words from “has entered” to the end substitute “a composition or scheme proposed by the solicitor has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989.”.

2. In Article 14A(2)(b), for paragraph (b) substitute—

10 “(b) a composition or scheme proposed by the solicitor has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989; or”.

3. In Article 41(3)(a), for the words from “or enters” to “dies” substitute “, or a composition or scheme proposed by the solicitor has been approved under Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989 or the solicitor dies”.

15 *The Insolvency (Northern Ireland) Order 1989 (NI 19)*

4. In Article 103(1)(a), for “a demand” substitute “a written demand”.

5. In Article 185, after paragraph (2) insert—

20 “(2A) For all purposes of winding up, the principal place of business in Northern Ireland of the unregistered company is deemed to be the registered office of the company.”.

6. In Article 186(1)(a) after “written demand” insert “(known as “the statutory demand”)”.

7. In Article 242(1)(a) for “a demand” substitute “a written demand”.

8. In Article 242(2)(a) for “a demand” substitute “a written demand”.

25 9. In Article 343(1), after “the interim receiver” insert “or”.

10. Omit Article 348(1A).

11. Omit Article 348A.

12. Omit Article 361A(2).

30 13. In Schedule B1, in paragraph 1A, for “outside Northern Ireland” substitute “outside the United Kingdom”.

14. In Schedule 1, in paragraph 3, at the beginning insert “Without prejudice to Article 28 or 30 of the Property (Northern Ireland) Order 1997,”.

The Pensions (Northern Ireland) Order 2005 (NI 1)

35 15. In Article 105(2)(b), for “or 230A(3)” substitute “of that Order or a report to the individual’s creditors under Article 230A(3)”.

The Insolvency (Northern Ireland) Order 2005 (NI 10)

16. Omit Article 26(3).

SCHEDULE 3

Section 19(3).

REPEALS

Short Title	Extent of Repeal
5 The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (NI 11)	In Article 15(8)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.” In Article 40(4)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.” In Article 66(7)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.” In Article 86(7)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.” In Article 114(7)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.” In Article 143(5)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.” In Article 160(7)— (a) in sub-paragraph (a), the words from “or becomes” to “creditors,”; (b) the words “trustee under the deed.”
35 The Insolvency (Northern Ireland) Order 1989 (NI 19)	In Article 2(2), in the definition of “prescribed”, the words “, 212(h) and 222”. Article 3(2)(b). In Article 4(5)(a), the words “(other than Chapter 1 of Part 8)”. In Article 5(1), the definition of “nominee”. In Article 9(1), the definitions of “creditors generally”, “deed of arrangement”, “nominee” and “the registrar”. Article 9(3).

Short Title	Extent of Repeal
5	<p>Article 31(10).</p> <p>Article 54(2D).</p> <p>In Article 81(2)(b)(i), the words “by post”.</p> <p>In Article 84(1)(b)(i), the words “by post”.</p> <p>In Article 185(2), the words from “, and the principal” to the end.</p> <p>In Part 8, Chapter 1.</p>
10	<p>Article 234(3).</p> <p>Article 237D(6).</p> <p>Article 253(2).</p> <p>In Article 280—</p> <ul style="list-style-type: none"> (a) paragraph (4)(b) and the preceding “or”; (b) in paragraph (4) the words “or transaction”; (c) in paragraph (4), the words “or banker” in both places where they occur.
15	<p>In Article 280—</p> <ul style="list-style-type: none"> (a) paragraph (4)(b) and the preceding “or”; (b) in paragraph (4) the words “or transaction”; (c) in paragraph (4), the words “or banker” in both places where they occur.
20	<p>In Article 343(1)—</p> <ul style="list-style-type: none"> (a) sub-paragraph (c) and the preceding “or”; (b) the words “or the trustee under the deed of arrangement”.
25	<p>In Article 344, the words “(other than Chapter 1 of Part 8)”.</p> <p>Article 348(1A).</p> <p>Article 348A.</p>
30	<p>Articles 351 to 354.</p> <p>Article 361A(2).</p> <p>In Article 362(1)(a), the entries relating to Articles 215(5) and 221(4).</p>
35	<p>In Schedule B1—</p> <ul style="list-style-type: none"> (a) paragraph 1(2); (b) paragraph 100(6)(d) but not the “and” following it. <p>In Part 1 of Schedule 2, paragraph 3.</p>
40	<p>In Part 1 of Schedule 3—</p> <ul style="list-style-type: none"> (a) paragraph 6; (b) in paragraph 8, the words “or by the trustee on any person”. <p>In Schedule 4, paragraph 15(b) and the preceding “and”.</p>
	<p>In Schedule 6, in the cross-heading preceding</p>

Short Title	Extent of Repeal
5	<p>paragraph 6, the words “Deeds of arrangement and”.</p> <p>In Schedule 6, in paragraph 6—</p> <p>(a) the words from “for endorsement” to “Article 211 and”;</p> <p>(b) the word “other”.</p>
10	<p>In Schedule 6, in paragraph 25(a) and (c), the words “, the trustee of a deed of arrangement”.</p> <p>In Schedule 6, in paragraph 28, the words “deeds of arrangement,”.</p>
15	<p>In Schedule 7, the entry relating to Article 218(1).</p> <p>In Schedule 8, paragraph 17 and the preceding cross-heading.</p>
20	<p>In Article 28(1)—</p> <p>(a) in sub-paragraph (a), the words from “or a trustee” to “creditors,”;</p> <p>(b) the words “trustee under the deed,”.</p>
25	<p>Article 6(2) and (3).</p>
	<p>Article 105(2)(c).</p>
	<p>Article 26(3).</p>