Northern Ireland Assembly

Research and Information Service Bill Paper

10 October 2025

[redacted]

Insolvency (Amendment) Bill: key considerations

NIAR 76-25

This Bill Paper aims to support to Northern Ireland Assembly scrutiny of the Insolvency (Amendment) Bill – as introduced into the Assembly by the Minister for the Economy on 23 June 2017. The Bill aims to bring parity with comparable legislation enacted in Westminster in relation to England and Wales. The Paper includes context-setting information, an overview of the Bill Clauses that seek to deliver its policy objectives and consideration of public finance implications.

Paper 76-25 10 October 2025

Key Points

If enacted as introduced, the Insolvency (Amendment) Bill (the Bill) would amend prevailing insolvency legislation in Northern Ireland, to bring parity with comparable prevailing legislation in England and Wales, although some Clauses included in the Bill seek to bring parity with prevailing legislation governing Great Britain .

The Bill - introduced by the Minister of the Department for Economy (DfE) on 23 June 2025 - contains two unique provisions; dissimilar to the Westminster enacted legislation. First is the notification requirements relating to the Enforcement of Judgements Office when a company is wound-up voluntarily; and, second is the amendment of certain provisions contained in the Company Directors Disqualification (Northern Ireland) Order 2022, on insolvent partnerships.

In November 2024, the DfE held a public consultation on the Bill proposals; receiving four responses. Three were in favour of the Bill. A further one, from the Law Society for Northern Ireland (Law Society), raised concerns about the proposed abolition of the requirement to issue a statement of affairs. Subsequently, the Law Society further qualified its response; clarifying its earlier comments did not indicate that the Bill's "proposed changes were problematic".

A review of relevant literature and United Kingdom Parliamentary debates addressing the comparable Westminster enacted legislation revealed most proposed provisions in the introduced Westminster Bills were uncontroversial. Some provisions, however, invoked debate, In those cases relevant Clauses in the introduced Northern Ireland Bill reflect the enacted position in Westminster. Those included proposals to:

- Prove small debts
- Provide that the official receiver becomes the trustee on the making of a bankruptcy order
- Protect essential supplies

The Bill's accompanying Explanatory and Financial Memorandum stated the introduced Bill would incur no financial costs to government – the public purse. However, a 2021 DfE Regulatory Impact Assessment on the Bill proposals found they could result in Official Receiver familiarisation costs in the amount of £5,133 in year one, if implementing the enacted Bill as introduced.

The Bill extensively relies on secondary legislation to implement the detail of the Bill's underlying policy objective. If the Bill is enacted as introduced, it would empower the DfE and Department of Justice to introduce rules or regulations in 96 areas, subject to resolution under Northern Ireland Assembly Standing Orders – mostly through the Assembly's Negative Resolution procedure – meaning the rule would come into operation automatically, unless annulled by the Assembly within the given statutory period.. The DFE maintains that is normal practice when proposing and enacting regulatory insolvency procedural rules, because such rules are subject to Scrutiny by the Insolvency Rules Committee

Many of the powers enshrined in the Bill amend, or alter the effect, of existing statutory powers. The extent to which they do so has been set by the DfE in its Delegated Powers Memorandum. The Bill, if enacted as introduced, also would introduce new powers in certain areas.

Executive Summary

If enacted as introduced, the Insolvency (Amendment) Bill (the Bill) primarily would amend the Insolvency Order (Northern Ireland) 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnership Order (Northern Ireland) 1995, to bring parity with changes introduced in England and Wales by Westminster legislation since 2013. Note although some Clause included in the Bill seek to bring parity with changes to prevailing legislation governing Great Britain in the same time period.

The Bill - introduced by the Minister of the Department for Economy (DfE) on 23 June 2025 - contains two unique provisions; dissimilar to the Westminster enacted legislation. First is the notification requirements relating to the Enforcement of Judgements Office when a company is wound-up voluntarily; and, second is the amendment of certain provisions contained in the Company Directors Disqualification (Northern Ireland) Order 2022, on insolvent partnerships.

The Bill is technically complex; containing 121 provisions, as well as four schedules. This Bill Paper does not conduct a clause by clause analysis of the Bill. Instead, it focuses on the introduced Bill's key policy aims, as set out in the its accompanying Explanatory and Financial Memorandum (EFM).

In November 2024, the Department for Economy (DfE) held a public consultation on the policy proposals that would subsequently form the basis of the Bill; receiving only four responses. Three of those were favourable to all proposals. The fourth, the Law Society for Northern Ireland (Law Society), raised concerns about the proposed abolition of the requirement to issue a statement of affairs. Subsequently, the Law Society further qualified its response; clarifying its earlier comments did not indicate that the Bill's "proposed changes were problematic".

As noted, most of the introduced Bill brings parity in Northern Ireland with comparable legislation governing England and Wales. A review of relevant literature and United Kingdom Parliamentary debates addressing the comparable Westminster enacted legislation revealed most proposed provisions

in the introduced Westminster Bills were uncontroversial. Some provisions, however, invoked debate, In those cases relevant Clauses in the introduced Northern Ireland Bill reflect the enacted position in Westminster. Those provisions were:

- **New powers for liquidators to assign causes of action:** during United Kingdom Parliamentary debates on the Small Business, Enterprise and Employment Act 2015, the Opposition raised concerns that the equivalent clause in that 2015 Act could dilute ethics and professionalism in the insolvency sector. It is worth noting that an amendment to the original clause was put to a vote and defeated when said legislation subsequently was enacted by Westminster.
- **Removal of the need to seek sanction for the liquidator or trustee to use certain powers**: during debates on said 2015 Act, the Opposition proposed to amend equivalent provisions in that Act, to include an exception for trustees wishing to appoint a bankrupt to assist with certain task in the business. That amendment was put to a vote and defeated the United Kingdom Parliament.
- **Abolition of requirements to hold meetings in insolvency cases**: during United Kingdom Parliamentary debates on the Small Business, Enterprise and Employment Act 2015 the Opposition argued that the minimum thresholds for deemed consent (see sub-section 2.3.1 for a definition) were too high and proposed an amendment to reduce the minimum to one creditor. This amendment was put to a vote and accepted, but was later overturned by a United Kingdom Government amendment. The minimum threshold proposed in the introduced Bill in Northern Ireland is the same the enacted Westminster legislation.
- **Removal of the need to prove small debts**: there were some United Kingdom Parliamentary debates about the level at which a “small debt” should be set. The equivalent Clauses in the introduced Bill in Northern Ireland reflect the final agreed position in the comparable Westminster-enacted legislation.
- **That the Official Receiver becomes trustee on the making of a bankruptcy order**: an amendment was proposed during the passage of

the Small Business, Enterprise and Employment Bill through the United Kingdom Parliament in 2015, on the basis that the proposed Clause could remove some responsibilities from the Official Receiver and rights from creditors. The equivalent Clauses in the introduced Bill in Northern Ireland reflect the final agreed position in the comparable Westminster-enacted legislation.

- **Protection of essential supplies**: businesses raised concerns about the impact of equivalent provisions in England and Wales prior to their inclusion in the Insolvency (Protection of Essential Supplies) Order enacted in Westminster in 2015. Those stated concerns ultimately resulted in the amendment of the /introduced Order – that is, the inclusion of safeguards. The same safeguards have been adopted for purposes of the introduced Bill in Northern Ireland.

The EFM accompanying the currently introduced Bill states the Bill, if enacted, would not incur financial costs to government – that is, to the public purse. A 2021 Regulatory Impact Assessment regarding the proposals underpinning this Bill indicated Official Receiver familiarisation costs in the amount of £5,133; only occurring in year one of implementation.

The Bill makes extensive use of secondary legislation. It includes provisions to empowering the DfE and DoJ to propose rules or regulation in 96 areas, subject to resolution under Northern Ireland Assembly Standing Orders. A majority of those would be under Negative Resolution. The DfE has noted that this is normal practice in the area of insolvency law, because such rules are subject to Scrutiny by the Insolvency Rules Committee.

Many of the powers enshrined in the Bill amend, or alter the effect, of existing statutory powers. The extent to which they do so has been set by the DfE in its Delegated Powers Memorandum. There are, however, a number of new powers that would be introduced by the Bill including those that concern the abolition of meetings, creditor opting out of receiving information and the protection of essential supplies. Section 4 below provides more detail on the Bill's use of Secondary Legislation.

Contents

Introduction

The Insolvency (Amendment) Bill was introduced into the Northern Ireland Assembly on 23 June 2025 by the Minister for the Department for the Economy (DfE). The Bill seeks to bring parity between insolvency law in Northern Ireland with that of England and Wales. It also includes Clause that seek to bring parity between insolvency law in Northern Ireland with that of Great Britain. This Bill Paper aims to support Assembly consideration of the introduced Bill, in particular its key policy and public purse implications.

It draws on the Bill's accompanying Explanatory and Financial Memorandum (EFM) and other available information sources at time of writing. It is structured using the following section headings, with potential scrutiny points stated throughout:

1. Context
2. Proposed changes included in the Bill
3. Review of costs
4. Use of secondary legislation
5. Key takeaways

Please note that the Paper is not offered as legal advice or opinion; nor specialist accountancy advice or opinion; nor a substitute for either.

1 Context

This section sets out the purpose of the Bill and a summary of the DfE's November 2024 consultation on the policy proposals that preceded the Bill's introduction.

1.1 Purpose of the Insolvency (Amendment) Bill

1.1.1 Current Westminster legislation that the introduced Bill seeks to adopt and adapt

Insolvency and director disqualification in Northern Ireland has historically "kept as far as possible in parity with that applying in England and Wales". For the

most part, the introduced Bill adopts changes made to Westminster-enacted insolvency legislation governing England and Wales since 2013. Other Clauses seek to adopt changes made to Westminster-enacted insolvency legislation governing Great Britain.

In Great Britain, the central piece of primary legislation on insolvency is the Insolvency Act 1986. The central piece of legislation dealing with director disqualification is the Company Directors Disqualification Act 1986. Since 2013, five Acts have made amendments to these two pieces of legislation:

- The Enterprise and Regulatory Reform Act 2013
- The Deregulation Act 2015
- Small Business, Enterprise and Employment Act 2015
- The Corporate Insolvency Act 2020; and
- The Economic Crime and Corporate Transparency Act 2023.

Of those five pieces of legislation, two have already led to amendments to Northern Ireland insolvency legislation. Those were the Corporate Insolvency Act 2020 and the Economic Crime and Corporate Transparency Act 2023, which amended the Insolvency Order and the Disqualification Order through legislative consent memoranda in the Northern Ireland Assembly.[1]

Equivalent amendments to those introduced to legislation England and Wales by the three pieces of legislation passed between 2013 and 2015 have not yet been made to Northern Ireland legislation. As such, the Insolvency Bill seeks make those amendments to ensure parity between legislation in Northern Ireland and legislation in England and Wales (or Great Britain, depending on the specific Clause).

In addition, the Insolvency Bill, if enacted, would also introduce two changes to Northern Ireland insolvency legislation not currently found in equivalent legislation in Great Britain. Those changes concern the notification of the Enforcement of Judgement Office to be notified when a company enters

[1] The legislative consent memorandum for the Corporate Insolvency Act 2020 was laid on 21 May 2020. The legislative consent memorandum for the Economic Crime and Corporate Transparency Bill was laid on 27 October 2022

voluntary liquidation and the disqualification of a partner guilty of misconduct in a partnership subject to administration.[2]

1.1.2 Existing legislation in Northern Ireland that the introduced Bill is to amend

The central piece of primary legislation dealing with insolvency in Northern Ireland is the Insolvency Order (Northern Ireland) 1989 (the 1989 Order).

The central piece dealing with director disqualification is the Company Directors Disqualification (Northern Ireland) Order 2002 (the Disqualification Order).

The Insolvency Bill, if enacted as introduced, would make changes to both those pieces of legislation. It would also make changes to the Insolvent Partnership Order (Northern Ireland) 1995.

1.2 Consultation

The DfE carried out a public consultation on the proposed amendments included in the Insolvency Bill between 6 November 2024 and 1 January 2025. That consultation received four responses from:

- Chartered Accountants Ireland
- The Insolvency Practitioners Association
- Advice Northern Ireland; and
- The Law Society of Northern Ireland.

Responses from the first three of those organisations voiced agreement with the proposals included in the consultation. The response from the Law Society of Northern Ireland was also “generally favourable”. The Law Society did comment on the proposal to amend the rules around the submission of a statement of affairs to the Official Receiver in certain bankruptcy cases. The points raised by the Law Society will be explored in further detail in Section 2 of this paper alongside a more detailed overview of the Insolvency Bills proposed changes.[3]

[2] Committee for the Economy, Official Report: Minutes of Evidence (18 June 2025) Minutes Of Evidence Report

[3] Department for the Economy, Insolvency (Amendment) Bill, Briefing for the Economy Committee on the Outcome o the Polic Consultation (18 March 2025)

2 Introduced Bill - proposed changes

As noted above, the introduced Bill, if enacted, would introduce changes to insolvency and director disqualification legislation, to mirror similar changes to legislation in England and Wales or Great Britain, enacted between 2013 and 2015. Briefing the Committee for the Economy on 18 June 2025, DfE officials noted the "technical complexity" of the amendments contained in the introduced Bill, adding they were:

> *…aimed at modernising insolvency legislation to improve the efficiency of processes, remove bureaucracy for practitioners where that is warranted and improve the return for creditors.*[4]

As well as technical, the amendments set out in the Bill are numerous, including 121 provisions and four schedules. Given the Bill's breadth and technicality, this section provides a thematic overview of the Bill's contents, rather than engage in a clause by clause breakdown; using the titles of each Part of the Bill, to focus on key policy aims underpinning the Bill, as set out in the Bill's EFM.[5]

As noted in sub-section 1.2 of this Paper, responses to the consultation on the Bill's policy proposals were generally supportive, albeit limited. In the absence of extensive consultation responses, the below seek to supplement those; drawing on United Kingdom Parliamentary debates during the passage of equivalent legislation in Westminster (see sub-section 1.1 above).

2.1 Part 2: Office-holder actions

The provisions set out in Part 2 of the introduced Bill concern actions taken by office-holders. Specifically, they would, if enacted, provide new powers to the administrator to bring claims for fraudulent or wrongful trading and new powers for administrator/liquidators to assign causes of action. The provision would also make changes to the application of proceeds of office-holder claims.

[4] Committee for the Economy, Official Report: Minutes of Evidence (18 June 2025) Minutes Of Evidence Report

[5] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)

2.1.1 New powers to the administrator to bring claims for fraudulent or wrongful trading

The current Insolvency Order allows the liquidator to take action against Company directors where a company has knowingly:

- Carried out business with the intent to defraud creditors or for any fraudulent purpose, or
- Continued to trade when the director knew, or ought to have known, that there was no way it could avoid insolvent liquidation[6]

The same powers are not currently available to an administrator. To take similar action, the administrator must first put the company into voluntary liquidation. This, according to the DfE, "increases the costs of the insolvency and thereby reduces the assets available for creditor".[7]

To address this, Clause 2 of the introduced Bill, if enacted, would amend the 1989 Order to provide administrators with the same powers as liquidators to take action for wrongful or fraudulent trading. Respondents to the DfE's consultation on the Bill's proposals agreed to this change.[8] Respondents to that consultation were favourable to such an amendment.

This change corresponds to amendments introduced in England and Wales through section 117 of the Small Business, Enterprise and Employment Act 2015.[9] A review of the relevant literature and debates at the time of the Westminster legislation's passage through the United Kingdom Parliament revealed this amendment was uncontroversial.

2.1.2 New powers for liquidators and administrators to assign causes of action

[6] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[7] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[8] Clause 2 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[9] Section 177 Small Business, Enterprise and Employment Act 2015

As noted above, Clause 2 of the introduced Bill proposes to empower liquidators and administrators to bring claims for fraudulent or wrongful trading, if enacted.

Further, its Clause 3 empowers liquidators and administrators the power to sell or assign such claims to an individual creditor, a group of creditors or a third party (such as private sector firms that specialise in acquiring insolvency claims).[10] It also enables liquidators or administrators to assign claims in relation to "transaction at undervalue", "preferences" and "extortionate credit transaction" or "challenges to monitor remuneration in subsequent insolvency proceedings".[11] Moreover, it proposes that funds raised from the sale of such action may contribute to the paying unpaid creditors.

Clause 3 reflects similar amendments made to Section 118 of the Westminster-enacted Small Business and Enterprise and Employment Act 2015.[12] At the time of its passage through Parliament, there was considerable debate over the those proposed amendments. In particular, the Opposition at that time were concerned that in assigning such actions to third parties "the ethics, duties and obligations on qualified professional [insolvency practitioners would be] separated from the incentive and right to pursue a complaint"[13]. The Opposition were principally concerned that the confidentiality "expected of an office-holder would be passed to the assignee".[14]

In response, the Whitehall Minister noted insolvency practitioners would continue to be bound to statutory limitation on disclosing information and would not pass those powers or any information received under them to the assignee. Subsequently, the Bill proposal was agreed to on division.[15]

[10] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[11] Clause 3 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[12] Section 118 Small Business, Enterprise and Employment Act 2015
[13] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[14] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[15] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper

2.1.3 Application of proceeds of office-holder claims

In insolvency proceedings, creditors are either secured, or unsecured creditors. When assets are realised in an insolvency situation, secured creditors are generally paid in full from the sale of the assets they hold a security over. Secure creditors fall into two sub-categories:

- Those with a fixed charge on an asset(s) of the business.
- Those with a floating charge, which provides security for a loan, but not on specific assets. In the event of an insolvency, a creditor holding a floating charge is generally lower down the hierarchy for payment than a fixed charge creditor.[16]

By contrast, unsecured creditors generally only receive payment when all other creditor groups have been paid. Examples of secured creditors include banks and lenders. Examples of unsecured creditors include suppliers, customers, His Majesty's Revenue and Customers and contractors.[17]

Currently, the 1989 Order allows claims to be to brought by administrators or liquidators, or both, for:

- Fraudulent trading
- Wrongful trading
- Transaction at an undervalue
- The giving of preference
- Extortionate credit transactions[18]

According the DfE, caselaw in Great Britain establishes proceeds from such claims were not to form part of the company's property used to satisfy the debts

[16] The Difference between Secured and Unsecured Creditors - Begbies Traynor Group
[17] The Difference between Secured and Unsecured Creditors - Begbies Traynor Group
[18] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)

owed to creditors with floating charge security. [19] That enabled such proceeds to go to ordinary creditors.

Section 119 of the Small Business, Enterprise and Employment Act 2015[20] codified the jurisprudence in England and Wales. It provided that the proceeds from such claims do not form part of the company's property, which is available is for the satisfaction of debts owed to a creditor with floating charge security. That codification, however, did not apply to Northern Ireland. Clause 4 of the introduced Bill amends the 1989 Order to bring parity between the Northern Ireland legislative position with that of England and Wales.[21] A review of literature and debates from the passing of the Small Business, Enterprise and Employment Act 2015 has revealed that this Clause was uncontroversial.

2.2 Part 3: Removal of the need to seek sanction

Schedule 2 of the 1989 Order sets out the powers of the liquidator. Schedule 3 of the same Order sets outs the powers of a trustee in a bankruptcy.

Currently, Articles 140 and 142 require liquidators to obtain sanction before exercising certain powers set out in Schedule 2.

Similarly, Article 287 requires trustees to obtain permission from the creditors' committee of the High Court before exercising certain powers set out in Schedule 3.[22]

Clause 5[23] of the introduced Bill enables a liquidator to exercise all powers in Schedule 2 of 1989 Order, without sanction. Clause 6[24] enables trustees to exercise the powers set out in Schedule 3 of the same Order, without seeking permission.

[19] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[20] Section 119 Small Business, Enterprise and Employment Act 2015
[21] Clause 4 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[22] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[23] Clause 5 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[24] Clause 6 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill

The changes proposed in Clauses 5 and 6 correspond to similar amendments introduced by Articles 120[25] and 121[26] of the Westminster-enacted Small Business, Enterprise and Employment Act 2015. During that Act's passage through Parliament, there was some debate with regard to Article 121, which concerned trustees exercising powers without sanction. [27]

Amongst other things, Article 121 provided trustees with powers to "issue proceedings in the bankrupts name and to continue trading in the bankrupt's business". An Opposition amendment proposed an exception to using those powers without sanction in cases "where the trustee wished to appoint the bankrupt to assist in dealing with certain tasks". In response to that amendment, the Whitehall Minister explained trustees have a:

> *…statutory duty to act in the interests of creditors and should not undertake actions (including employing the bankrupt) that are likely to have a negative impact on the bankrupt's estate and therefore reduce the money available for creditors.*[28]

The Minster added that any failure to comply with this statutory duty would be "addressed through the regulatory system", and that requirement sanction "therefore served no worthwhile purpose and just added unnecessary cost". The amendment was voted on and defeated.[29]

2.3 Part 4: Position of creditors

If enacted, the introduced Bill would make a range of changes to the 1989 Order with respect to the position of creditors in company and individual insolvency. The Bill's "Principle Amendments" in this area are the removal of the requirement to hold meetings and providing creditors with the ability to opt-out of receiving certain notices in company and individual insolvency. The

[25] Article 120 Small Business, Enterprise and Employment Act 2015
[26] Article 121 Small Business, Enterprise and Employment Act 2015
[27] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[28] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[29] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper

provisions under Part 4 also would amend the 1989 Order, to the make a range of technical changes to company and individual insolvency. These are also summarised below.

2.3.1 Abolition of requirements to hold meetings in insolvency

The 1989 Order provides that a physical meeting of creditors is required to ascertain their wishes during insolvency proceedings. Article Clause 7, if enacted would amend the 1989 Order to remove this requirement with respect to company insolvencies.[30] Clause 8 would similarly amend the 1989 to remove the requirement with respect to individual insolvencies.[31]

In both cases, the default position would be that no meeting will take place unless a minimum number of creditors or contributories request one in writing. That minimum is defined in both Clauses 7 and 8 as either:

- 10% in value of the creditors or contributories, or
- 10% in the number of creditors or contributories, or
- 10 creditors or contributories

The Bill proposes that where a meeting does not take place, decisions are to be made by a process known as “deemed consent”. Under that process, “anyone seeking a decisions from” a company’s creditors or contributories, in the case of a company insolvency, or from an individual’s creditors in the case of individual insolvency, are able to do so by writing (which includes electronically). Unless, 10% or more of creditors by value object, the proposal is to be deemed to have been accepted.

Clause 7 also empowers the DfE to bring regulations to amend the minimum number of creditors or contributories needed to request a meeting, or to object to decisions in company insolvency cases. Clause 8 empowers the DfE powers to make similar regulation with respect to individual insolvency cases. In both clauses, such regulations would be subject to the Draft Affirmative procedure under the Northern Ireland Assembly Standing Orders. The Clauses also are to

[30] Clause 7 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[31] Clause 8 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill

give the Department of Justice with powers to make rules to define the meaning of "qualifying procedure", "deemed consent" and "creditors or contributories". Such rules are to be subject to the Negative Resolution procedure under the Northern Ireland Assembly Standing Orders. [32] Section 4 below provides more detail on the Bill's use of Secondary Legislation.

Clauses 7 and 8 correspond to Article 122[33] and 123[34] of the Small Business, Enterprise and Employment Act 2015. During the passage of that Act through the United Kingdom Parliament, there was some debate on those changes. The Opposition at the time argued that while they supported the principle of adapting to modern technology, the "projected savings were too optimistic" and the proposals could lead to "further creditor disengagement". The Government responded, noting only 4% of creditors engaged with meetings, adding that unwelcome and under attended meetings "added expense to the insolvency proceedings".[35]

Two Opposition amendments were proposed. The first was to allow a meeting to be called by just one creditor. The second was to change the manner in which deemed consent would apply to individual proceedings.

In response to the first, the United Kingdom Government argued that this would give too much power to a single creditor. Nonetheless, this amendment was voted on and agreed[36], but was later overturned by a Government amendment at the conclusion of the Bill's report stage.[37] The final agreed threshold specified in the enacted Act was the same as that currently proposed in the introduced Bill in Northern Ireland – those are:

- 10% in value of the creditors or contributories, or
- 10% in the number of creditors or contributories, or

[32] Clause 7 and 8 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[33] Section 122 Small Business, Enterprise and Employment Act 2015
[34] Section 123 Small Business, Enterprise and Employment Act 2015
[35] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[36] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[37] House of Lords Library Note, Small Business, Enterprise and Employment Bill (28 November 2014) LLN-2014-038.pdf

- 10 creditors or contributories[38]

Moreover, the second proposed amendment sought to ensure that deemed consent could not be used where the office-holder had identified face-to-face meetings would incur an additional cost to the estate. The Government argued that because all face-to-face meetings would incur a cost to the estate, the amendment would remove the opportunity to use deemed consent. This amendment was defeated in Westminster, upon division.[39]

2.3.2 Ability for creditors to opt not to receive certain notices: company and individual insolvency

Currently, the 1989 Order requires officer holders to send creditors a range of documentation, regardless of the creditors continued interest in the case.[40]

Clause 9 of the introduced Bill would, if enacted, give creditors in company insolvencies the option of opting out of receiving such documentation. It would also give creditors the option of opting back into receiving documentation at any time.[41] Clause 10 of the Bill would make similar changes with respect to individual insolvency.[42] The Clauses would also grant the Department of Justice (DoJ) with new powers to make rules concerning when this opt-out could be disapplied. Those power would also allow the DoJ to determine exceptions to an opted-out individuals right to vote and how an individual might choose to become an opted-out creditor. Those rules would be subject to Negative Resolution procedure in the Northern Ireland Assembly. Section 4 below focusses on the Bill's use of secondary legislation to implement the detail of this Bill, if enacted as introduced.

Respondents to the consultation on the Bill's policy proposal expressed support for this measure.

---

[38] Section 123 Small Business, Enterprise and Employment Act 2015
[39] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[40] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[41] Clause 9 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[42] Clause 10 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill

Clauses 9 and 10 correspond to Articles 124[43] and 125[44] of the Westminster-enacted Small Business, Enterprise and Employment Act 2015. A review of the relevant literature and debates concerning the passage of those Articles through the United Kingdom Parliament revealed they were uncontroversial at that time.

2.3.3 Final meeting prior to dissolution

A final meeting prior to dissolution is required for voluntary and compulsory liquidations, as well as all bankruptcies where an Insolvency Practitioner is the liquidator or trustee. A final meeting is not required an administration, administrative receivership or voluntary arrangement or where the Official Receiver is office-holder in a compulsory liquidation or bankruptcy.[45]

The Bill includes provisions that abolish final meetings in all cases. Information on the case are to be provided to creditors in the form of "final accounts" and office-holders are to retain the right to call a general meeting of creditors at any time, where a meeting is still required.

The relevant Clauses of the introduced Bill are:

- Clause 26 would make the amendment with respect to member's voluntary winding-up[46]
- Clause 36 would make the amendment with respect to a creditors' voluntary winding-up[47]
- Clause 43 would make the amendment with respect to a winding-up by the Court, where an Insolvency Practitioner is liquidator[48]
- Clause 84 would make the amendment with respect to a bankruptcy, where an Insolvency Practitioner is trustee.[49]

[43] Article 124 Small Business, Enterprise and Employment Act 2015
[44] Article 125 Small Business, Enterprise and Employment Act 2015
[45] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[46] Clause 26 Insolvency (Amendment) Bill
[47] Clause 36 Insolvency (Amendment) Bill
[48] Clause 43 Insolvency (Amendment) Bill
[49] Clause 84 Insolvency (Amendment) Bill

Respondents to the consultation on the Bill's policy proposal expressed support for these amendments.

The amendments that would be introduced by the above Clauses correspond to similar amendments introduced in England and Wales by paragraphs 18, 29, 38 and 83 of Schedule 9 of the Small Business, Enterprise and Employment Act 2015.[50] A review of literature and debates on the passage of those Articles through the Houses of Parliament revealed they were uncontroversial at the time.

2.3.4 Release of a liquidator on a winding-up order being rescinded

Article 272(4) of the 1989 Order[51] provides for a trustee to be released when a bankruptcy order is annulled. It does not provide the same for a liquidator when a winding-up order is rescinded.[52]

Clause 50[53] of the Bill amends Article 148 of the 1989 Order[54], which concerns the release of liquidator by the High Court, to allow for the release of the liquidator when a winding-up order is rescinded. This proposal received support from Respondents to the DfE's consultation on the Bill's policy proposals.

The change proposed in Clause 50 of the introduced Bill corresponds to a similar amendment in Great Britain, as introduced by Paragraph 10 of Schedule 6 to the Deregulation Act 2015.[55] A review of available literature on the passing of the Deregulation Act 2015 revealed this amendment was uncontroversial.

2.4 Part 5: Administration

Part 5 of the Insolvency Bill, would if enacted, make changes to administration procedures in Northern Ireland. It would extend an administrator term of office

[50] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[51] Article 272(4) Insolvency Order (Northern Ireland) 1989
[52] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[53] Clause 50 Insolvency (Amendment) Bill
[54] Article 148 Insolvency Order (Northern Ireland) 1989
[55] Schedule 6 Deregulation Act 2015

and the circumstances under which administrators can make payments to unsecured creditors.

2.4.1 Extension of administrator's term of office

The 1989 Order specifies an Administrator's term of office is to end after 12 months, with the option of extending by a further six months.[56]

Clause 88 of the Bill increases the time an administrator's term can be extended from six months to 12 months.[57] This amendment received support from Respondents to the DfE's consultation on the Bill's policy proposals.

The amendment proposed in Clause 88 corresponds to equivalent changes in Great Britain introduced by Section 127 of the Westminster-enacted Small Business, Enterprise and Employment Act 2015.[58] A review of literature and United Kingdom Parliamentary debates from the time of the 2015 Act's passage revealed this amendment was uncontroversial.

2.4.2 Payments to unsecured creditors

Currently, once a company goes into liquidation or administration, the 1989 Order ring-fences a part of the company's property. This is known as the prescribed part, which is to be used to pay unsecured creditors.

The 1989 Order also requires administrators to seek permission from the High Court to make payments to unsecured creditors. This is in place to allow the office-holder to consider converting the administration to a "creditors' voluntary liquidation"; allowing for greater engagement with unsecured creditors.

The requirement that administrators must seek High Court to make payments to unsecured creditors applies to payments made out of the prescribed part.[59]

[56] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[57] Clause 88 Insolvency (Amendment) Bill as introduced Insolvency (Amendment) Bill
[58] Article 127 Small Business, Enterprise and Employment Act 2015
[59] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)

Clause 89 of the Bill allows the administrator to make payments to unsecured creditors from the prescribed part, without first seeking the permission of the High Court. Clause 89 would amends the 1989 Order to the effect the option to move from administration to creditor voluntary liquidation is not to apply when payments are to be made out of the prescribed part.[60] This amendment received support from Respondents to the DfE's consultation on the introduced Bill's policy proposals.

The amendment proposed by Clause 89 corresponds to similar amendments made in Great Britain by Section 128 of the Westminster-enacted Small Business, Enterprise and Employment Act 2015.[61] A review of the relevant available literature and Parliamentary debates from the time of that Act's passage through the United Kingdom Parliament revealed this amendment was uncontroversial.

2.5 Part 6: Small debts

Part 6 would, if enacted as introduced, amend the 1989 Order; making changes to the process of providing evidence of small debts in insolvency cases. Currently, the 1989 Order specifies that those claiming small debts must provide proof of a debt claim.[62]

Clause 90 amends the 1989 Order to the effect that a proof of debt claim is no longer required for small debt claims with respect to company insolvency.[63] Clause 91 makes a similar change in respect to individual insolvency.[64] This amendment received support from Respondents to the DfE's consultation on the Bill's policy proposals.

[60] Clause 89 Insolvency (Amendment) Bill
[61] Article 128 Small Business, Enterprise and Employment Act 2015
[62] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[63] Clause 90 Insolvency (Amendment) Bill
[64] Clause 91 Insolvency (Amendment) Bill

The EFM explains the value of a small debt is to be "initially" set at £1,000.[65] This corresponds to the small debt amount set out in relation to Individual Insolvencies by the Westminster-enacted Small Business, Enterprise and Employment Act 2015. At the time of that Act's passage through Parliament, there was some debate about the level the amount is to be set at. The Opposition party at the time tabled an amendment to lower it to £100 on the basis that debts in individual bankruptcies tended to be for "relative small amounts" and that setting larger amount could encourage "fraudulent activity". The amendment was ultimately defeated at a vote in Westminster.[66]

2.6 Part 7: Trustees in a Bankruptcy

Part 5 of the introduced Bill would, if enacted, make changes to the rules around the "first trustee in bankruptcy", as set out in the 1989 Order.

Under the 1989 Order, when the High Court makes a bankruptcy order, the Official Receiver becomes the receiver and manager of the bankrupt's estate. In this role, the Official Receiver is limited to protecting the estate and the realisation of assets where there is an urgent need to do so – for example perishable goods. That means that the full power to deal with assets is not available until a trustee is appointment.[67]

According to the Bill's EFM, the appointment of the Official Receiver as receiver and manager:

> *…has not been shown to have any practical benefit for the administration of bankruptcy cases and serves to delay the realisation of assets.*[68]

Clause 92 of the Bill amends the 1989 Order to provide that the Official Receiver becomes trustee on the making of a bankruptcy order. Clause 92 also

[65] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)
[66] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper
[67] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[68] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)

sets out the exception where the High Court appoints someone else as trustee because either of the following apply:

- The bankruptcy order is the result of a Court appointed insolvency practitioner report that seeks to explore a voluntary arrangement. In such cases, the Court can appoint the insolvency practitioner as trustee.
- The bankruptcy is in a voluntary arrangement at the time the bankruptcy order is made. In such cases, the Court can appoint the supervisor of the voluntary arrangement as trustee.[69]

These amendments received support from Respondents to the DfE's consultation on the Bill's policy proposals.

The amendments proposed by Clause 92 to the introduced Bill correspond to changes introduced in England and Wales by Section 133 for the Westminster-enacted Small Business, Enterprise and Employment Act 2015. The change caused some debate during the its passage through the United Kingdom Parliament. The then Opposition tabled an amendment to the original Clause on the basis that the proposal removed responsibilities from the Official Receiver and rights from creditors. The Government responded that there was no benefit in delaying the appointment of a trustee and that it delayed the realisation of assets. The amendment was put to a vote and defeated in Westminster.[70]

2.7 Part 8: Abolition of fast-track voluntary arrangements

Fast-track voluntary arrangements (FTVAs) were introduced in Northern Ireland by the Insolvency (Northern Ireland) Order 2005. They are streamlined voluntary arrangements that are used where a debtor has already been made bankrupt. The Official Receiver acts as nominee and supervisor in a FTVA.

The DfE's consultation on policy proposal for the introduced Bill noted that FTVAs have not been used in Northern Ireland since they have been made

[69] Clause 92 Insolvency (Amendment) Bill
[70] House of Commons Library, Small Business, Enterprise and Employment Bill: Committee stage report (14 November 2014) Research Paper

available in 2005. It states that this "indicates that they do not meet a need in the insolvency market".[71]

Clause 93 of the introduced Bill amends the 1989 Order to remove the provisions relating to FTVAs.[72] The EFM that accompanied the Insolvency Bill noted that:

> *Individuals who are undischarged bankrupts who wish to prose and IVA will still be able to do so, but an insolvency practitioner will act as nominee and supervisor, not the official receiver.*[73]

The changes to be brought in by Part 8 of the Bill correspond to changes introduced in England and Wales by section 135 of the Westminster-enacted Small Business, Enterprise and Employment Act 2015.[74] The rationale for removing FTVAs in England and Wales was similar to the rationale being employed in Northern Ireland – that is, the "extremely low number of FTVAs in recent years indicates that they do not meet a need in the market".[75]

2.8 Part 9: Protection of essential supplies

The 1989 Order includes provisions which regulate the continuance of "essential supplies" to insolvent businesses. Articles 197 and 343 of the Order ensure that office-holders are treated as new customers with a statutory right to receive supplies irrespective of pre-existing debts. The same Articles prevent utility suppliers:

[71] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[72] Clause 93 Insolvency (Amendment) Bill
[73] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)
[74] Article 135 Small Business, Enterprise and Employment Act 2015
[75] Insolvency Service (Great Britain) Impact Assessment, Proposed changes to the law governing insolvency proceedings (12 June 2014) IA14-14N.pdf

> *…demanding payment of outstanding charges as a condition of continuing supply but allow them to make it a condition for providing the supply that the office-holder personally guarantees to pay for it.*[76]

Within the context of Articles 197 of the 1989 Order, which deals with company insolvency, "essential supplies" are defined as including suppliers of:

- Electricity
- Gas
- Water or sewerage services
- Communications service
- Goods and services, such as:
    - point of sale terminals
    - computer hardware and software
    - information, advice and technical assistance in the connection with the use of information technology
    - data storage and processing
    - website hosing[77]

Within the context of Article 343 of the 1989 Order, which deals with individual insolvency, "essential services" are defined as:

- a supply of electricity by a public electricity supplier
- a supply of gas by a holder of a gas license
- a supply of water of sewerage services
- a supply of communication service by a provider of a public electronic communication service.[78]

Part 9 of the introduced Bill empowers the DfE to bring regulations impacting the protection of essential supplies provisions set out in the 1989 Order with respect to company insolvency. It also directly amends the 1989 Order

[76] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[77] Article 197 The Insolvency (Northern Ireland) Order 1989
[78] Article 343 The Insolvency (Northern Ireland) Order 1989

provisions that relate to the protection of essential supplies in the case of businesses owned by individuals.

2.8.1 Power to add supplies protected under the 1989 Order (company insolvency)

As noted above, the current list of supplies protected under the 1989 Order in the case of company insolvency are set out in Article 197 of 1989 Order. Clause 94 of the Insolvency Bill empowers the DfE to bring regulations to amend article 197 to add "any of the following":

- a supply of electricity, gas, water or sewerage services or communication services by a person of a specified description
- a supply of a IT goods by a person of a specified description[79]

The list of protected suppliers in company set out in sub-section 2.8 of this Paper was previously amended by the Westminster-enacted Corporate Insolvency and Governance Act 2020 to include certain on-sellers and suppliers of communication services, as well as goods and services. According to the policy proposal consultation that preceded the introduced Bill, the power to bring regulations proposed in Clause 94 of the Bill empowers the DfE to "facilitate any further similar updating needed in the future". Regulations made under Clause 94 would be subject to affirmative resolution procedure in the Northern Ireland Assembly Standing Orders.[80] Section 4 looks at the Bill's use of secondary legislation in more detail.

The amendments set out in Clause 95 of the introduced Bill received support from Respondents to the DfE's consultation on the Bill's policy proposals.

2.8.2 Power to give further protection to essential supplies (company insolvency)

The Corporate Insolvency and Governance Act 2020 inserted new Article 197A into the 1989 Order. That Article specified termination clauses protecting supply contracts cease to have effect if a company entered into administration or a

[79] Clause 94 Insolvency (Amendment) Bill
[80] Clause 94 Insolvency (Amendment) Bill

voluntary arrangement. The Article also included "safeguards for suppliers" that a supply contract is to be terminated in the case of administration or a voluntary arrangement where:

- The High Court granted permission, or
- If the supplier was not paid for supplies made to the company after it entered into administration or a voluntary arrangement, within 28 days of the payment becoming due.[81]

Clause 95 of the introduced Bill empowers the DfE to bring regulations that make provision for insolvency-related terms of contract for the supply of goods or services. The Clause also ensures that safeguards noted above are maintained in any future regulations. Regulations made under Clause 95 are to be subject to affirmative resolution procedure in the Northern Ireland Assembly.[82] Section 4 below provides more detail on the Bill's use of secondary legislation.

The amendments set out in Clause 95 received support from Respondents to the DfE's consultation on the Bill's policy proposals.

2.8.3 Protection supplies of water, electricity, etc. – Individual insolvency

Unlike the list of protected suppliers for company insolvency, the list of essential goods and services in relation to individual insolvency (as set out in Article 343 of the 1989 Order and set out in subsection 2.8) was not updated in Northern Ireland's by the Westminster Corporate Insolvency and Governance Act 2020.[83]

Clause 96 of the introduced Bill amends Clause 343 of the 1989 Order to ensure the defined list of essential goods and services in individual insolvency matched the list for company insolvency.[84]

[81] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[82] Clause 95 Insolvency (Amendment) Bill
[83] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[84] Clause 96 Insolvency (Amendment) Bill

Clause 97 also introduces similar safeguards for suppliers of individuals who have entered into administration or a voluntary arrangement, as set out in Article 197 of the 1989 Order and Clause 95 of the Bill in respect to company insolvency.[85]

Clause 98 mirrors Clause 94, as explained in sub-section 2.8.1 above, but for individual insolvencies. Clause 98 empowers the DfE to make regulations to amend the list of goods and services found in Article 343 to add:

- a supply of electricity, gas, water or sewerage services or communication services by a person of a specified description
- a supply of a IT goods by a person of a specified description

Regulations made under Clause 98 are to be subject to Affirmative Resolution procedure under Northern Ireland Assembly Standing Orders. See section 4 of this Paper for further detail on the Bill's use of secondary legislation.[86]

Clause 99 mirrors Clause 95, as explained above, but for individual insolvencies. Clause 99 empowers the DfE to bring regulations to make provision for insolvency-related terms of a contract to cease to have effect where a voluntary arrangement is approved. Regulations made under Clause 99 are to be subject to affirmative resolution procedure under Northern Ireland Assembly Standing Orders – meaning a debate and vote in the Northern Ireland Assembly would be required to affirm the rule..[87] Section 4 of this Paper considers the Bill's use of secondary legislation in greater detail.

The amendments to be introduced by Clauses 96 to 99 of the introduced Bill received the support of Respondents to the DfE's consultation on the Bill's policy proposals.

2.8.4 Comparison with Great Britain

The proposed changes to be introduced by Clauses 94 to 99 of the introduced Bill correspond to changes to insolvency in Great Britain, as introduced in that

[85] Clause 97 Insolvency (Amendment) Bill
[86] Clause 98 Insolvency (Amendment) Bill
[87] Clause 99 Insolvency (Amendment) Bill

jurisdiction by Sections 93 to 95 of the Westminster-enacted Enterprise and Regulatory Reform Act 2013 and Insolvency (Protection of Essential Supplies) Order 2015. The latter added "Information Technology Supplies" and intermediary providers, or on-sellers, of utilities to the list of protected suppliers.[88]

The Insolvency (Protection of Essential Supplies) Order 2015 also ensured that "insolvency-related terms" in contracts ceased to have effect when a company or individual enters into administration or a voluntary arrangement. As noted above, that was incorporated into Northern Ireland company insolvency law by the Corporate Insolvency and Governance Act 2020; and is to be incorporated into individual insolvency law in Northern Ireland by Clause 97 of the introduced Bill.

Prior to making the regulations under the Enterprise and Regulatory Reform Act 2013, the United Kingdom Government consulted businesses which could be impacted by the Insolvency (Protection of Essential Supplies) Order 2015. Concerns raised by those businesses led to the inclusion of safeguards in that Order. Those safeguards reflect those already in place in Northern Ireland with respect to company insolvency (as per Article 197(a) of the 1989 Order, explained in sub-section 2.8.2 above) and those in the introduced Bill in respect of individual insolvency (as explained in sub-section 2.8.3).

Potential Scrutiny Points:

1. What engagement, if any, has the DfE had with "protected suppliers" on the changes proposed in the introduced Bill, at Clauses 94 to 99?

2. How will the DfE ensure that "protected suppliers" are consulted with on any future use of the powers Clauses 95 and 99, if enacted as introduced in the Bill?

[88] Continuity_of_essential_supplies-_guidance_to_insolvency_practitioners_and_suppliers.pdf

2.9 Part 10: Remote attendance at meetings and use of websites

Clause 101 of the introduced Bill amends the Insolvency Order to allow for remote attendance by "members of a company" at a meeting "summoned by the office-holder". It, however, does not apply to a "meeting of the company in a members' voluntary winding-up". Remote attendance would be at the discretion of the person convening the meeting.[89]

Clause 101 also ensures that a person attending a meeting remotely is to have the same rights to speak and vote at that meeting as a person attending in person. The person convening the meeting is to be responsible for ensuring that remote attendees are able to "exercise their rights to speak or vote" and for the identification of those in attendance, as well as the security of the means used to enable remote attendance.[90]

In addition to providing remote access to meetings, Clause 101 also allows the office-holder to provide relevant notice and issue information on a website. The Clause amended the rules on company and individual insolvency, to allow for information to be share on a website.

The Bill's EFM noted that similar Clauses were previously inserted into the Insolvency Order by Section 1 of the Insolvency (Amendment) Act (Northern Ireland) 2016. Section 1 of that Act was not commenced. Clause 101 of the introduced Bill repeals that Section.

Potential Scrutiny Points:

3. The Committee may wish to ask the DfE why Section 1 of the Insolvency (Amendment) Act (Northern Ireland) 2016 was not commenced; and why the Department has chosen to introduce those changes through the Bill, rather than commence the relevant section of the earlier Act?

[89] Clause 101 Insolvency (Amendment) Bill
[90] Clause 101 Insolvency (Amendment) Bill

Clause 101 also empowers the Department of Justice (DoJ) to make rules regarding the remote attendance of meetings. Those rules are to be subject to Negative Resolution under Northern Ireland Assembly Standing Orders. See section 4 of this Paper for further detail.

The amendment to be introduced by Clause 101 received the support of Respondents to the Bill's policy proposal consultation.

2.10 Part 11: Other amendments relating to insolvency

Part 11 of the introduced Bill amends the 1989 Order to require that the Enforcement of Judgements Office (EJO) is notified about a proposal to voluntarily wind-up a company. It also makes "minor amendments" to insolvency in Northern Ireland. The noted amendments are outlined below.

2.10.1 Requirement for the Enforcement of Judgements Office to notified of proposals for voluntary winding-up of companies (Clause 103 and 104)

The DfE's consultation on policy proposals for the introduced Bill noted that the Insolvency Rules (Northern Ireland) 1991 require that the Enforcement of Judgements Office (EJO) is notified "about the commencement of most forums of insolvency proceedings". It also highlights the "serious omission" that the legislation does "not include a requirement for the EJO to be notified if a resolution of the voluntary winding-up of a company is proposed or passed".[91]

Clause 103 rectifies this omission by requiring a company to give notice of proposed resolution for a voluntary winding-up to the EJO. Clause 104 would require that the EJO is notified when the resolution is passed, or not passed.[92]

Unlike other Clauses in the Bill, Clause 103 does not seek to bring parity with Great Britain or England and Wales by introducing similar provision to those set out in the three Westminster-enacted legislation discussed in section 1 of this

[91] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[92] Clause 103 Insolvency (Amendment) Bill

Paper. Commenting on this Clause in evidence to the Committee for the Economy on 18 June 2025, an DfE official stated:

> *We identified the fact that there is a gap in the legislation. If a company is proposing or has decided to enter voluntary liquidation, there is no procedure in place to require the Enforcement of Judgments Office to be notified. It needs to be notified, because there are certain things that are required by statute to be done if those events happen. We have inserted into the Bill clause 103, which requires the Enforcement of Judgments Office to be notified of any proposal to wind up a company voluntarily. We have inserted clause 104, which requires the Enforcement of Judgments Office to be notified whether a resolution to have a company voluntarily wound-up is passed.*[93]

2.10.2 Presentation of bankruptcy petition: conditions to satisfied

Article 239 of the 1989 Order specifies the jurisdictional criteria to be met by a person petitioning the High Court in Northern Ireland. It requires a person to have themselves or someone else made bankrupt. To do so, the debtor's main interests must either:

- be in Northern Ireland,
- be in a Member state of the European Union other than Denmark and the debtor has an establishment in Northern Ireland, or
- the test set out in Article 239(2) of the 1989 Order is met.[94]

The test referred to in the above bullet point is:

1. the debtor is domiciled in Northern Ireland, or
2. the debtor is personally present in Northern Ireland on the day which the petition is presented, or
3. at any time over the previous three years the debtor

[93] Committee for the Economy, Official Report: Minutes of Evidence (18 June 2025) Minutes Of Evidence Report
[94] Article 239 The Insolvency (Northern Ireland) Order 1989

a) has been ordinarily resident, or has had a place of residence, in Northern Ireland, or
b) has carried on business in Northern Ireland[95]

Clause 105 of the introduced Bill removes point 2 from the above list – that is, "the debtor is personally present in Northern Ireland on the day which the petition is presented".[96]

In England and Wales, the jurisdictional conditions are set out in the Insolvency Act 1986.[97] The Insolvency Act 1986 does not require the statutory test to be met when the debtor is present in England and Wales on the day that the petition is presented. Clause 105 of the introduced Bill therefore seeks to "preserve parity" with England and Wales.[98]

2.11 Part 12 and schedule 4: Amendments to the Insolvency Partnerships Order 1995

Part 12 of the introduced Bill amends the Insolvency Partnerships Order 1995 (the 1995 Order). Schedule 4 further amends the 1995 Order. Collectively, those amendments update the 1995 Order, to bring it in line with changes made in England and Wales by the Westminster-enacted Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulation 2017 and Insolvency (Miscellaneous Amendments Regulations) 2017.

Part 12 also amends the 1995 Order with regard to the application of provisions of the Company Director Disqualification (Northern Ireland) Order 2002, where a partnership enters administration or is wound-up. Additionally, it amends the

[95] Article 239 The Insolvency (Northern Ireland) Order 1989
[96] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)
[97] Article 263I with respect to the adjudicator and Article 265 with respect to the court in creditor petitions.
[98] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)

1995 Order to remove disqualification for breach of competition law out of that Order.

2.11.1 Application of the Company Directors Disqualification (Northern Ireland) Order 2002

Article 16 of the 1995 Order currently provides that certain provision in the Company Directors Disqualification Order applies when an insolvent partnership is wound-up as an unregistered company.[99]

Clause 115 of the introduced Bill amends the 1995 Order so that the same provision applies when an insolvent partnership enters into administration or is wound-up "otherwise than as an unregistered company".[100]

The amendments proposed in Clause 115 do not seek to bring parity with Great Britain or England and Wales and are unique to Northern Ireland. The Policy Proposal Consultation noted that the amendment rectifies "what is plainly a lacuna [or gap] in the existing legislation". Explaining this further in evidence to the Committee for Economy on 18 June 2025, a DfE official stated:

> *We also identified that, under existing law, it is possible for a partner in an insolvent partnership to be disqualified if the partnership is being wound-up but not if the partner has been guilty of misconduct and the partnership is subject to administration. We have inserted a provision to rectify that gap. That is clause 115, which provides for the replacement of article 16 of the Insolvent Partnerships Order (Northern Ireland) 1995 with a substitute that will make it possible for partners to be disqualified for misconduct where a partnership has entered administration, as well as where it has been wound-up. That defect remains in the corresponding English legislation. I have spoken to officials in the Insolvency Service there. They*

[99] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)
[100] Clause 115 Insolvency (Amendment) Bill

> *agree that it is a deficiency, although they have not got round to rectifying it yet.*[101]

Clause 115 of the Bill disapplies to certain provisions of the Company Directors Disqualification (Northern Ireland) Order 2002 to partnership insolvency in Northern Ireland. Specifically, it removes references to Articles 13A to 13E of the Company Directors Disqualification (Northern Ireland) Order 2002 from Article 16 of the 1995 Order. The purpose of those Articles is to "make it possible for a person to be disqualified from acting as a director for a breach of competition law".[102] The rationale for removing those Articles from the 1995 was explained in the Policy Proposals Consultation as follows:

> *Breach of competition law is separate and distinct from becoming insolvent. There is little point in applying the competition law provisions to partnerships if the they can only be made use of if a partnership is insolvent.*[103]

2.11.2 Other amendments to the 1995 Order included in the Insolvency Bill

The Bill also proposes a range of amendments to the 1995 Order to bring law on insolvency partnership in Northern Ireland in line with Great Britain. The proposed amendments align with those that are proposed for company or individual insolvency elsewhere in the Bill, or which have:

> *…already been made to the Company Directors Disqualification (Northern Ireland) Order 2022 by being included in the Small Business, Enterprise and Employment Act 2015 with the agreement of the Northern Ireland Assembly.*[104]

[101] Committee for the Economy, Official Report: Minutes of Evidence (18 June 2025) Minutes Of Evidence Report
[102] Committee for the Economy, Official Report: Minutes of Evidence (18 June 2025) Minutes Of Evidence Report
[103] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[104] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)

Table 1 provides a summary of those changes, along side the relevant clauses of the Bill as introduced.

Table 1: Summary of proposed amendments to 1995 Order included in the introduced Bill[105]

Proposed Amendment
To replace creditors meetings in cases of insolvent partnerships with deemed and decision procedures similar to those outlined in sub-section 2.3.1 of this paper (above).
To abolish the requirement for liquidators and trustees to secure sanction from creditors, or the court to exercise certain powers – similar to the changes proposed for individual and company insolvency outlined in sub-section 2.2 of this Paper (above).
To replace the need to summon final meetings in liquidations and bankruptcies with a requirement to distribute a final account – similar to the changes proposed in sub-section 2.2.3 of this Paper.
To prevent the presentation of a winding-up petition to delay the appointment of an administrator, following the filling of a notice in Court of the intention to appoint an administrator in a partnership insolvency – similar to the provisions outlined in sub-section 2.3.4 of this Paper.
To simplify the procedures relating to the release of an administrator when there is no distribution of assets to unsecured creditors – similar to the provisions set out in sub-section 2.3.4 of this Paper.
To change the minimum level of debt that a creditor must meet to petition of have a member of a partnership made bankrupt from £750 to £5,000.
To amend the list of matters that are to be taken into account when determining the unfitness in partnership insolvencies. The proposed changes make it possible “to disqualify persons who have instructed individuals who have been disqualified as a result of misconduct in relation to a partnership”. The changes also allow the DfE to seek compensation order where the conduct of a disqualified partner has resulted in a loss to creditors.

[105] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)

To remove references to European Regulations, as a consequence of amendments made to that Regulation by the Insolvency (Amendment) (EU Exit) Regulations 2019.

2.12 Schedule 2: Trustees in Bankruptcy: Consequential Amendments

2.12.1 Insolvency practitioners to appointed as interim receivers

Article 259 of the 1989 Order allows the High Court to appoint an interim receiver to manage a debtor's property between the presentation of a bankruptcy petition and the courts hearing of the petition. Under the Article, only the Official Receiver is empowered to appoint as the interim receiver in this case.

The Article also make provision for an interim receiver to be appointed when a debtor who has been petitioned for bankruptcy opts for a voluntary arrangement instead. In this case, the interim receiver can be either the Official Receiver or an Insolvency Practitioner.[106]

Schedule 2 amends Article 259 of the 1989 Order to allow for an insolvency practitioner to be appointed as an Interim Receiver following the presentation of a bankruptcy petition. This amendment corresponds to changes in Great Britain introduced by Paragraph 13 of Schedule 6 of the Westminster-enacted Deregulation Act 2015.[107] A review of relevant available literature and debates during that Act's passage through the United Kingdom Parliament has revealed that the amendments were uncontroversial.

2.13 Schedule 3: Miscellaneous Amendments

2.13.1 Winding-up petitions after notice to appoint an administrator

Schedule B1 of the 1989 Order enables a company to appoint an administrator. Written notice of the intention to appoint an administrator must be given five

[106] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[107] Schedule 6 Deregulation Act 2015

days in advance to "anyone entitled to appoint an administrative receiver or administrator". A copy of this notice must be filed within the High Court. Once it is an interim moratorium preventing the issuance of an order for a company to be wound-up. The interim moratorium can last for up to 10 days, or fewer, where an administrator is appointed within this 10-day period.

A petition to wind-up the company may be presented while the interim moratorium is in place. Paragraph 26 of Schedule B1 states that an administrator cannot be appointed where such a petition has been made. This can result in the delayed appointment of the administrator.[108]

To address this, Paragraph 2 of Schedule 3 of the Bill inserts a new paragraph in the existing schedule to enable the appointment an administrator despite the presentation of a wind-up petition when that petition was presented during the interim moratorium.[109]

The change introduced by Paragraph 2 of Schedule 3 corresponds to similar changes introduced in Great Britain by Paragraph 5 of Schedule 6 of the Westminster-enacted Deregulation Act 2015.[110]

2.13.2 Establish the circumstances in which a notice of intention to appoint an administrator has to be given to prescribed persons.

Paragraph 27 of Schedule B1 of the 1989 Order states that anyone proposing to appoint administrator must give notice of their intention to appoint to an administrator to "anyone who is or may be" entitled to appoint an administrator and other "prescribed persons".[111] Those "prescribed persons" are defined in the Insolvency Rules (Northern Ireland) 1991 and include the company and the supervisor of a company under a Voluntary Arrangement. Notably, prescribed persons cannot appoint an administrator.

[108] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[109] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)
[110] Schedule 3 Insolvency (Amendment) Bill
[111] Schedule B1 The Insolvency (Northern Ireland) Order 1989

The EFM that accompanied the Bill notes that the requirement to give notice to prescribed persons can cause delay in the appointment of an administrator in circumstance were there a no other individuals who may themselves appoint an administrator who require notification.[112]

Paragraph 3 of the Schedule 3 removes the requitement to give notices of the intention to appoint to persons who are not themselves entitled to appoint an administrator. The EFM notes, however, that the prescribed persons still are to receive notification when the appointment of the administrator has been made.[113]

The changes introduced by Paragraph 3 of the Schedule 3 were introduced in Great Britain by Paragraph 6 of Scheule 6 to the Westminster-enacted Deregulation Act 2015.[114]

2.13.3 Simplification of procedure of the release of an administrator in cases where there is no distribution to unsecured creditors other than prescribed part

Schedule B1 of the 1989 Order sets out states that administrators who were not appointed by the Court are to be released by a resolution of the creditors committee, or by a resolution of creditors, when no such committee exists.[115]

Paragraph 4 of Schedule 3 of the introduced Bill allows for an administrator to be released without the need for resolution from creditors in cases were there are insufficient funds to enable a distribution to be made to unsecured creditors.[116]

[112] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[113] Schedule 3 Insolvency (Amendment) Bill
[114] Schedule 6 Deregulation Act 2015
[115] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[116] Schedule 3 Insolvency (Amendment) Bill

The change introduced by Paragraph 4 of Schedule 3 of the introduced Bill corresponds to a similar change brought into Great Britain through Paragraph 7 of Schedule 6 of the Westminster-enacted Deregulation Act 2015.[117]

2.13.4 Abolition of courts power to order money due to a company which has been wound-up to be paid into a bank appointed by the Court

Article 129 of the 1989 Order enables the High Court to order that money due to a company that has been wound-up by the Court is to be paid into a bank account appointed by the Court. This is instead of paying that money directly to the liquidator.

According to the DfE's policy document, which preceded the introduced Bill, this provision dated back to the Companies Act 1862 and was intended to protect creditors' interests from what at the time was "an unregulated insolvency profession". That policy document also notes that a regulatory framework has been in place in Northen Ireland since 1989.

As such the Article 129 of the 1989 Order "no longer serves any useful purpose".[118] If enacted, Paragraph 6 of Schedule 3 of the Bill repeals Article 129 of the 1989 Order.[119] That corresponds to changes introduced in Great Britain through Paragraph 10 of Schedule 6 of the Westminster-enacted Deregulation Act 2015.[120]

2.13.5 To enable the Department to obtain information directly from the directors of insolvent companies

Article 10 of the 2002 Order concerns applications to the High Court to have company directors disqualified on the grounds of unfitness. It also enables the Department to accept undertakings as an alternative to the Court making a disqualification order.

[117] Schedule 6 Deregulation Act 2015
[118] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[119] Schedule 3 Insolvency (Amendment) Bill
[120] Schedule 6 Deregulation Act 2015

Article 10(5) under that Order allows both the Department and the Court to require liquidators, administrator or administrative receivers to provide information about the directors conduct and to request to inspect relevant books and records. Neither the Court, nor the Department, has this power with respect to third parties.[121]

Paragraph 7 of Schedule 3 to the Bill amends Article 10 of the 2002 Order, to enable both the Department and the Court to request information from and inspect the records of third parties.[122] This power corresponds to similar powers introduced in Great Britain by Paragraph 11 to Schedule 6 to the Westminster-enacted Deregulation Act 2015.[123]

2.13.6 Submission of Statement of Affairs in bankruptcy

Article 261 of the 1989 Order requires anyone made bankrupt on a creditor's petition to submit a statement of affairs to the Official Receiver within 21 days, unless they are released from this obligation by the Official Receiver, or if the 21-day limit is extended.[124]

Paragraph 13 of Schedule 3 to the Bill amends this to the effect that a statement only requires it when the Official Receiver requests it. The relevant information previously provided by that statement, would be provided by the competition of a preliminary examination questionnaire. That corresponds to changes introduced in Great Britain by Paragraph 15 of Schedule 6 of the Westminster-enacted Deregulation Act 2015.[125]

As noted in Section 1 of this Paper, this was the only proposed amendment that drew substantive comment during the consultation on the Bill's proposals. Specifically, the Law Society of Northern Ireland expressed concern about the proposal. It stated that the proposal had "the potential to directly or indirectly

[121] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[122] Schedule 3 Insolvency (Amendment) Bill
[123] Schedule 6 Deregulation Act 2015
[124] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[125] Schedule 3 Insolvency (Amendment) Bill

dilute the significance of the document" and expressed the view that a statement of affairs would still be requested in most cases because of the "opportunity which it provides to understand the bankrupt's circumstances".[126]

The DfE's response to the above was to note that the same changes had already been made in England and Wales; adding it remained:

> *…of the view that there would be merit in making similar changes and that doing so would benefit the Official Receiver, persons made bankrupt on a creditor's petition and the court.*
>
> *In particular, making the change would be a step towards bringing the position in personal insolvency into line with what happens in the case of companies which have been wound-up by the court.*[127]

The Law Society provided further feedback to the DfE on 7 July 2025. It noted that the Society's initial response was "not a strong objection", but was intended to highlight potential implications to consider before making the amendment. Those implications included administrative burden on the Official Receiver; raising potential legal challenges regarding the use of preliminary examination questionaries, due to such questionnaires not being a "statutory form".[128]

Ultimately, the more detailed feedback provided by the Law Society on 7 July 2025, stating it was for the Insolvency Service:

> *…to satisfy itself that there are appropriate measures and safeguards in place to ensure that full information is provided as required by legislation.*[129]

Moreover, the Society concluded:

---

[126] Department for the Economy, Insolvency (Amendment) Bill, Briefing for the Economy Committee on the Outcome o the Polic Consultation (18 March 2025)

[127] Department for the Economy, Insolvency Amendment Bill, Briefing for the Economy Committee on the outcome of the policy consultation (18 March 2025)

[128] Letter from the Minster for the Economy to the Committee for the Economy, The Insolvency (Amendment) Bill – Law Society comments of the Provision of a Statement of Affairs (8 September 2025)

[129] Letter from the Minster for the Economy to the Committee for the Economy, The Insolvency (Amendment) Bill – Law Society comments of the Provision of a Statement of Affairs (8 September 2025)

> *None of the comments involved in the response indicated that the proposed changs were problematic from the Society's perspective but were rather an objective look at some potential implications.*[130]

The DfE has therefore brought the proposed amendment forward to legislation without alternation, on the basis that:

- The proposed changes will not have any negative impact on the Official Receiver's ability to discharge his duties.
- It would reduce the burden on the bankrupt and the Department.
- The Official Receiver would retain the right to request a Statement of Affairs when necessary.
- That a failure to complete a preliminary examination would be failure to comply with Article 264 of the 1989 Order.
- The Official Receiver is content with the measures the Insolvency Service has in place to deal with a failure to complete a preliminary questionnaire.
- Article 264 provides for any failure to provide the Official Receiver with "reasonably required" information as a contempt of court.[131]

2.13.7 Replacement of references to being adjudged bankrupt by the court

Article 349 of the 1989 Order states provides that a person cannot act as an Insolvency Practitioner if they have been "adjudged" bankrupt under the 1989 Order, or under the Insolvency Act 1986, which applies in England and Wales.

Changes to the law in England and Wales now mean that the Courts are only responsible for adjudging individuals bankrupt in certain cases. In other cases,

[130] Letter from the Minster for the Economy to the Committee for the Economy, The Insolvency (Amendment) Bill – Law Society comments of the Provision of a Statement of Affairs (8 September 2025)

[131] Department for the Economy, Letter to the Committee for the Economy: The Insolvency (Amendment) Bill – Law Society Comments on the Provision of a Statement of Affairs (8 September 2025)

such as individuals seeking to declare themselves bankrupt, they must now apply to an adjudicator.[132]

Paragraph 18 of Schedule 3[133] to the introduced Bill amends Article 349 of the 1989 Order to replace the wording "adjudged bankrupt", with "made bankrupt". According to the DfE policy proposal consultation that preceded the Bill, that change would:

> *…cover both bank bankruptcy orders made by the Court on creditor petitions and bankruptcy orders made by the adjudicator on debtor applications.* [134]

The above changes had previously been introduced in Great Britain by paragraph 58 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

Paragraph 19 of Schedule to the introduced similarly removes reference to being "adjudged bankrupt" in Article 24 of the Insolvency (Northern Ireland) Order 2005. Paragraph 20 amends similar to Article 15 of the Company Directors Disqualification (Northern Ireland) Order 2002.[135]

3 Review of costs

Turning to key potential financial effects of the Bill, in terms of its public purse implications; the EFM accompanying the introduced Bill noted "no financial costs to government".

A 2021 Regulatory Impact Assessment on the policy proposals that preceded the introduced Bill noted Official Receiver familiarisation costs resulting from:

[132] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[133] Schedule 3 Insolvency (Amendment) Bill
[134] Department for the Economy, Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995 (6 November 2024)
[135] Schedule 3 Insolvency (Amendment) Bill

> *…the time incurred by the Official Receiver and his staff familiarising themselves with the legislative changes giving effect to the measures.*[136]

The RIA estimated those familiarisation costs in the amount of £5,133 (2021 prices) and only occur in the first year when implementing the legislative changes. That is inline with an earlier United Kingdom Government assessment of the public purse costs anticipated to arise from the Westminster-enacted Small Business, Enterprise and Employment Act 2015. That Act included a range of amendments similar to those proposed in the introduced Bill (see section 2 of this Paper for further details); and it estimated one-off familiarisation costs for the public sector when implementing such legislative change; amounting to £89,436.[137]

Potential Scrutiny Point:

4. The Committee may wish to ask the DfE why the familiarisation costs identified during the 2021 RIA were not reflected in the EFM?

With regard to wider impacts, the EFM states that the removal of the need to prove small debts could result in savings to creditors of £33,634 per year. In addition, other provisions in the introduced Bill could result in annual savings to insolvency practitioners amounting to £18,844, and annual savings to the Official Receiver amounting to £2,118. The total saving across all insolvency practitioners and the Official Receiver was estimated to be £336,028.

The Bill's EFM added that:

> *Some of these savings could be expected to be passed on to creditors in the form of increased dividends.*[138]

[136] Department for the Economy, Regulatory Impact Assessment to the Insolvency Bill (16 December 2021) Regulatory Impact Assessment to the Insolvency Bill -signed by minister.docx
[137] Insolvency Service (Great Britain) Impact Assessment, Proposed changes to the law governing insolvency proceedings (12 June 2014) IA14-14N.pdf
[138] Insolvency (Amendment) Bill Explanatory and Financial Memorandum (as introduced) (23 June 2025)

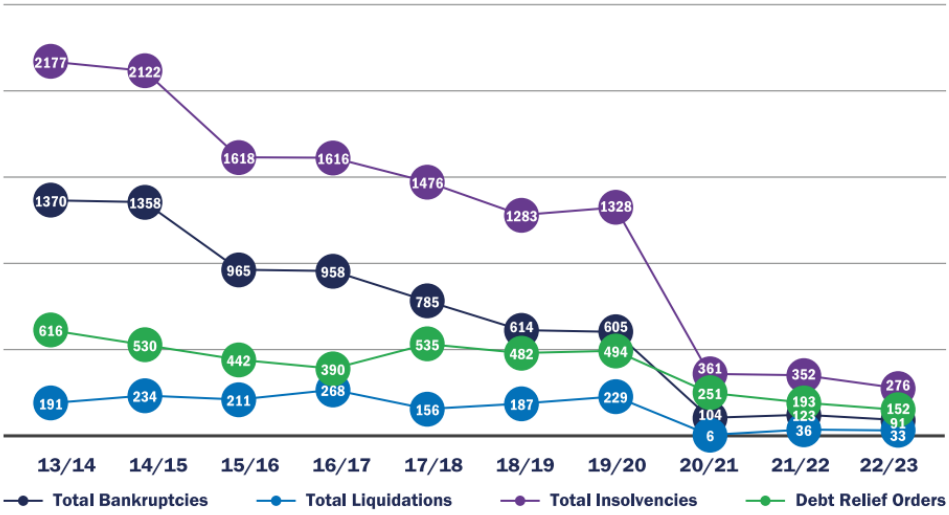
The 2021 RIA provided a further breakdown of each policy proposal's anticipated costs and benefits. That is summarised in Table 2 below. Based on that information, the proposals with the largest anticipated costs were the removal of the requirement to hold meetings and to hold final meetings in liquidations and bankruptcies. Both proposals were estimated to have one off familiarisation costs in the amount of £26,126. Those costs were predicted to be incurred by insolvency practitioners. The total familiarisation cost was based on there being 66 insolvency practitioners who routinely operated in Northern Ireland and a cost per practitioner of £396.[139]

The largest anticipated saving was predicted to arise from proposals to allow creditors to opt-out of receiving certain information. That proposal was expected to lead to an annual recurring saving of £166,995 from a reduction in the costs of communicating information to creditors. That was based on the total number of insolvency cases that took place in 2019/20 and an assumed creditor opt-out rate of 20% (that is, 20% of creditors in each case opting not to receive communications).

According to the Insolvency Service's Annual Report 2023, there was a decrease in the number of insolvency cases dealt with by the service between 2019/20 and subsequent years - see Figure 1 below. Total insolvencies fell from 1,328 in 2019/20, to 276 in 2022/23. That case decrease may impact the expected savings calculations set out in the 2021 RIA.[140]

[139] Department for the Economy, Regulatory Impact Assessment to the Insolvency Bill (16 December 2021) Regulatory Impact Assessment to the Insolvency Bill -signed by minister.docx
[140] Department for the Economy, Regulatory Impact Assessment to the Insolvency Bill (16 December 2021) Regulatory Impact Assessment to the Insolvency Bill -signed by minister.docx

Figure 1: Insolvency Cases Administered by the Insolvency Service from 2013/14 to 2022/23[141]



Source: Insolvency Service (June 2024)

Potential Scrutiny Point:

5. The Committee may wish to ask the DfE if the reduction in Insolvency Cases has been factored into its calculations addressing the Bill's impact, if enacted as introduced?

[141] Insolvency Service Annual Report and Account for year ended 31 March 2023

Table 2: Cost and benefits of the Bill Proposals, as determined by the DfE RIA in December 2021[142]

Policy proposal	Total Cost (Present value 2021)	Annual Benefit (£ 2021)	Commentary
Removal of requirement to seek sanction for certain actions in liquidation or bankruptcy	£0	£45,452	Benefit from saving of time costs directly associated with making sanction applications.
Removal of meeting of creditors as default position	£26,126	£32,347	Costs are transitional and are estimated to be £396 per insolvency practitioner. Savings related to physical costs and time costs.
Removal of final meetings in liquidations and bankruptcies	£26,136	£92,234	Costs are transitional and are estimated to be £396 per insolvency practitioner. Savings related to physical costs and time costs.
Removal of requirement for liquidator to be present at an 'Article 84' meeting of creditors in voluntary liquidation	£26,136	£3,844	Costs are transitional and are estimated to be £396 per insolvency practitioner. Savings related to physical costs and time costs.

[142]Department for the Economy, Regulatory Impact Assessment to the Insolvency Bill (16 December 2021) Regulatory Impact Assessment to the Insolvency Bill -signed by minister.docx

Policy proposal	Total Cost (Present value 2021)	Annual Benefit (£, 2021)	Commentary
Allowing creditors to opt-out of certain notices	£13,068	£166,995	Costs are transitional familiarisation costs incurred by insolvency practitioners (£168 per insolvency practitioner. Savings related to reduction in costs of communicating to creditors.
To double the period for which an administrator's appointment can be extended with the consent of creditors to one year.	£0	£15,000	Benefit estimate was based upon anticipated savings to administrators not having to make applications to the Court to extended beyond 18 months.
Removal of the need for creditors to claim for small debts	£13,068	£33,634	Costs were based on familiarisation costs of £168 per insolvency practitioner. Benefits were predicted to arise from creditors saving on costs for the time it taken to complete claims.
For the Official Receiver to become trustee on the making of a Bankruptcy Order	£0	£2,118	Benefits predicted to arise from cost and time spent by the Official Receiver.
Overall	£109,677	£390,624	Familiarisation costs incurred by insolvency practitioners and Official Receiver. Benefits were predicted to arise from the realisation of efficiencies in insolvency proceedings.

Source: DfE (2021)

4 Reliance on secondary legislation

The Bill relies extensively on secondary legislation to bring the detail that is to transpose and implement this Bill. In total, the Bill includes provisions that empowers Departments to bring rules or regulations in 96 areas. Of those, when exercised:

- 87 are to be in the form of rules
- Six in the forum of regulations
- Two in the form on an Order
- One as either a rule or a regulation

With regard to Assembly Bill Procedure under Northern Ireland Assembly Standing Orders, the introduced Bill specifies:

- 88 under Negative Resolution – meaning the rule would come into operation automatically, unless annulled by the Assembly within the given statutory period.
- Six under Draft Affirmative Resolution – meaning the rule or regulation is prepared in draft form by the rule making body. The Northern Ireland Assembly must approve the draft statutory rule or regulation. If the Assembly approves the draft statutory rule, the rule making body may then proceed to make the statutory rule
- One under Affirmative Resolution – meaning a debate and vote in the Northern Ireland Assembly would be required to affirm the rule.
- One under either Draft Affirmative or Negative Resolution – meanings as noted above - depending on the Order's purpose.

The Delegated Powers Memorandum prepared by the DfE notes that "much of the Bill consist of the insertion of provisions into the Insolvency Order". Those inserted provisions provide for "several matters" to be "prescribed by rules". The Memorandum further explains that those rules are made by the "Department of Justice, under Article 359 of the Insolvency Order". It adds:

> *Rules made under Article 359 of the Insolvency Order are subject to negative resolution procedure. The concurrence of this Department* [DfE]

and in the case of rules affecting court procedure, the Lady Chief Justice are required. In all cases the Insolvency Rules Committee, which is an advisory committee to the Department of Justice, has to be consulted. The current rules are the Insolvency Rules (Northern Ireland) 1991 (S.R. 1991 No. 354). These rules have been subjected to extensive amendment during the years that they have been in operation and are to replaced by a new set of consolidated rules. The new rules are essential to the working of some of the Bill provisions and it will only be possible to bring these provisions into operation once the new rules have been made and brought into operation.[143]

Potential Scrutiny Point:

6. The Committee for the Economy may wish to ask the DfE and the DoJ for updates regarding the status of the new consolidated rules.

7. Will the DfE and/or the DoJ consult on future changes to insolvency rules/regulations and the new consolidated rules?

8. Will the DfE and/or the DoJ update the Assembly of any responses to received to any such consultation prior to the introduction of any such rules or regulations?

In addition to the above, there a number of provisions in the Bill that create "new delegated powers or which amend or alter the effect of existing ones". Appendix 1 provides a summary of the new powers proposed in parts 1 to 12 of the introduced Bill, their purposes and the Assembly procedures that are to be used in each case and the DfE's rationale to opt to use secondary legislation.

The Appendix shows that the Bill introduces a significant number of new powers. Many of those are to be given the DoJ powers to make rules subject to

[143] Department for the Economy, Insolvency (Amendment) Bill Delegated Powers Memorandum

negative regulation. Such powers would affect insolvency procedures. The DfE has stated in its Delegated Powers Memorandum that it is "normal practice" that such changes to insolvency rules are subject to negative resolution. This, the DfE has stated, is because such rules are subject to Scrutiny by the Insolvency Rules Committee.[144]

Such changes include, but are not limited to[145], powers to make rules with regards:

- the abolition of meetings in company and individual insolvency (see sub-section 2.3.1 of this Paper for further details)
- the ability of creditors to opt-out of receiving certain notifications (see sub-section 2.3.2)
- the ability to amend the level of debt that constitutes a small debt in company and individual insolvencies (see section 2.5)

The Appendix also shows that the Bill empowers the DfE to make regulations to add to the list of "protected suppliers", as explained in section 9 of this Paper. In this case, the use of such powers amends primary legislation, namely the 1989 Order. As such, they are considered "Henry VII powers".[146]

The DfE's Delegated Powers Memorandum notes that the decision to use secondary legislation in this case is to reflect the "constantly and rapidly changing" nature of electronic goods and service. It is the DfE's view that secondary legislation would enable it to respond quickly to such changes. The DfE maintains that its use of Draft Affirmative procedures in these cases allow the Assembly to vote on proposed amendments to the primary legislation introduced by the use of these powers.[147]

It, however, is worth noting here that the use of secondary legislation impacts the scrutiny level applied in the Northern Ireland Assembly. The publication

[144] Department for the Economy, Insolvency (Amendment) Bill Delegated Powers Memorandum

[145] A fuller list is at Appendix 1 and can be found with the DfE's Delegated Powers Memorandum
[146] Greenberg, D, Northern Ireland Assembly, Deconstructing Legislation: A practical guide to legislative scrutiny February 2015
[147] Department for the Economy, Insolvency (Amendment) Bill Delegated Powers Memorandum

entitled “Deconstructing Legislation: A practical guide to legislative scrutiny” (February 2015) observes the following about secondary regulation when legislating:

> *Given the practical realities of the allocation of Assembly Business…it should be remembered that if the opportunity is not taken at the time of passing the Bill to scrutinise the policy completely and effectively, it may be difficult or impossible to take that opportunity later.*[148]

That guidance notes that while the affirmative resolution procedure offers greater opportunity to scrutinise secondary legislation than the negative resolution procedure, and recommends use of the former for “potentially controversial powers”, it nonetheless adds that a debate on an affirmative motion:

> *…is significantly less effective as a method of scrutiny than consideration of provisions of a Bill.*[149]

In this context, the 2021 report of the House of Lords’ Secondary Legislation Scrutiny Committee also merits mentioning. Outlining that Committee’s findings, after having reviewed the United Kingdom Government’s use of secondary legislation, rather than primary legislation, to “set out its legislative intent”, the report stated:

> *Over recent years, bills – which become acts of parliament and which are subject to robust scrutiny in their passage through Parliament – have often provided only the broadest outlines of the direction of policy travel, with all the details that will have a direct impact on individual members of public left to secondary legislation. And the more that is left to secondary legislation, the greater the democratic deficit because, in contrast to primary legislation, there is relatively scant effective parliamentary scrutiny of secondary legislation; it cannot be amended; in some cases, it may*

[148] Greenberg, D, Northern Ireland Assembly, Deconstructing Legislation: A practical guide to legislative scrutiny

[149] Greenberg, D, Northern Ireland Assembly, Deconstructing Legislation: A practical guide to legislative scrutiny

become law without any parliamentary debate; and, because the decision to accept or reject is all or nothing, very rarely will the Houses reject it.[150]

[150] Delegated powers and the impact on parliamentary scrutiny: Debate on two committee reports - House of Lords Library

Potential Scrutiny Point:

9. Given the introduced Bill's reliance on secondary legislation, and the lack of substantive financial information in the EFM, the Committee may wish to probe the DfE further about both policy and financial considerations relating to the Bill and forthcoming secondary legislation under the Bill, if it is enacted as introduced.

5 Key takeaways

The introduced Bill is technically complex; containing provisions that amend prevailing Northern Ireland legislation to bring parity with comparable legislation governing England and Wales. The Bill - contains two unique provisions; dissimilar to the Westminster enacted legislation. First is the notification requirements relating to the Enforcement of Judgements Office when a company is wound-up voluntarily; and, second is the amendment of certain provisions contained in the Company Directors Disqualification (Northern Ireland) Order 2022, on insolvent partnerships.

This Bill Paper has found the following:

- The November 2024 DfE consultation on the Bill's proposals had four responses. Three of those were favourable of the Bill. The Law Society for Northern Ireland was generally favourable, but raised concerns about the proposal to abolish the requirement to issue a statement of affairs. Later commentary from the Law Society however noted that it comments did not indicated that the "proposed changes were problematic".
- A review of relevant literature and United Kingdom Parliamentary debates addressing the comparable Westminster enacted legislation revealed most proposed provisions in the introduced Westminster Bills were uncontroversial. Some provisions, however, invoked debate, In those cases relevant Clauses in the introduced Northern Ireland Bill reflect the enacted position in Westminster.

- The EFM that accompanied the Bill stated that it would have no financial costs to government. A 2021 RIA on the Bill proposals indicated that those proposals would result in familiarisation costs to the Official Receiver of £5,133 in year one.
- The Bill makes extensive use of secondary legislation. It would provide Executive Department's powers to make rules or regulation in 96 areas. Most of these powers would involve the making of rules to be approved by Negative Resolution. This would provide less opportunity for Assembly scrutiny. The Department for the Economy has stated this is normal practice in the making of rules on insolvency procedures, as such rules are routinely scrutinised by the Insolvency Rules Committee.
- Many of the powers enshrined in the Bill amend, or alter the effect, of existing statutory powers. The extent to which they do so has been set by the DfE in its Delegated Powers Memorandum. The Bill would, if enacted, introduced new powers in certain areas.

Appendix 1: New Departmental powers in main part of the introduced Bill, if enacted[151]

Bill Clause	Power	Department (s)	Assembly Procedure	Rationale
Clause 7	Power to make Rules with regard to the abolition of requirements to hold meetings in company insolvency. As explained in sub-section 2.3.1 of this Paper. Clause 7 provides power to make rules with regard to "qualifying procedure" and "deemed consent procedures" and "creditors or contributories".	DoJ, with concurrence of DfE	Negative Resolution	The rules define procedure. Secondary legislation is to be used because 1) the definition includes a detailed list of procedures, and 2) the list may require updating and it would be easier to amend if the list is made by secondary legislation. According to the Delegated Powers Memorandum, "it is normal practice for insolvency procedures to legislated for in Rules which are subject to Negative Resolution in the Assembly" under Standing Orders.

[151] Department for the Economy, Insolvency (Amendment) Bill Delegated Powers Memorandum

Clause 7	Power to make regulations to amend the minimum number of creditors or contributories in the context of the deemed consent provisions in company insolvency. As explained in sub-section 2.3.1 of this Paper.	DfE	Draft Affirmative	According to the DfE's Delegated Powers Memorandum, this approach has been chosen to allow for changes to the minimum number to made quickly. Draft Affirmative has been chosen because the "appropriate number" is to be defined in primary legislation and "it is right that the Assembly should have opportunity for vote for or against" any change to that definition.
Clause 8	Power to make Rules with regard to the abolition of requirements to hold meetings in individual insolvency. As explained in sub-section 2.3.1 of this Paper. Clause 8 provides power to make rules with regard to "qualifying procedure" and "deemed consent procedures" and "creditors or contributories".	DoJ, with concurrence of DfE	Negative Resolution	The rules define procedure. Secondary legislation is to be used because 1) the definition includes a detailed list of procedures, and 2) the list may require updating and it would be easier to amend if the list is made by secondary legislation. According to the Delegated Powers Memorandum, "it is normal practice for insolvency procedures to legislated for in Rules, which are subject to negative resolution in the Assembly".

Clause 8	Power to make regulations to amend the minimum number of creditors or contributories in the context of the deemed consent provisions in individual insolvency. As explained in sub-section 2.3.1 of this Paper.	DfE	Draft Affirmative	According to the DfE's Delegated Powers Memorandum, this approach has been chosen to allow for changes to the minimum number to made quickly. Draft Affirmative has been chosen because the "appropriate number" is to be defined in primary legislation and "it is right that the Assembly should have opportunity for vote for or against" any change to that definition.
Clause 9	Power to make rules on the ability for creditors not to receive certain notices in company insolvency. As explained in sub-section 2.3.2 of this Paper. Specifically, to set out circumstances were opt-out could be disapplied, exceptions to opted-out creditors right to vote, and rules on how to be "elected" as an opted out creditor.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.

Clause 10	Power to make rules on the ability for creditors not to receive certain notices in individual insolvency. As explained in sub-section 2.3.2 of this Paper. Specifically, to set out circumstances were opt-out could be disapplied, exceptions to opted-out creditors right to vote, and rules on how to be "elected" as an opted out creditor.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice", according to the DfE, for such matters to be dealt with by rules, subject to negative resolution.
Clause 24	Power to make rules in regard to a Committee for creditors. Clause 24 would amend Article 59 of the Insolvency Order. That Article allows for the establishment of a committee of creditors to exercise functions conferred on it by the Insolvency Order. Clause 24 creates a new power for the DoJ to make rules with regard to the establishment of that committee.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.

Clause 27	Clause 27 would three insert new paragraphs into Article 81 of the 1985 Order, which concerns the effect of company insolvency. Those new paragraphs empower the DoJ to make rules to enable procedures to be put in place to allow creditors to nominate a different liquidator to act in a creditor's voluntary winding-up.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 36	Clause 36 would provide the DoJ with powers to make rules with regard to a final meeting prior to dissolution. This empowers the DoJ to make rules to define the period creditors have to object to the liquidator's release.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules subject to negative resolution.
Clause 38	Clause 38 provides the DoJ with powers to make rules regarding the procedure by which the Official Receiver, when acting as a liquidator of a company, summon meetings of	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.

	creditors for the purpose of choosing a person to take over as liquidator.			
Clause 42	Provides new powers to make rules regarding the appointment of a liquidator, by a liquidation committee.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 47	Provides new powers to make rules regarding the rights of creditors and members to summon meetings to replace a liquidator.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 62	Provides new power to make rules regarding the nomination of a liquidator were no meeting takes place.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 79	Provides new power to make rules regarding time limit for creditors to object to the release of a trustee; requiring the trustee to apply to the Department for release.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.

Clause 80	Provides new power to make rules regarding the appointment of a trustee following a vacancy in office were the Official Receiver does not ask creditors to appoint one.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 87	Clause 87 repeals provision in the 1989 Order that mean it is no longer possible to for a trustee in bankruptcy to be appointed by a meeting of creditors. Clause 87 also includes new powers to make rules to establish an alternative procedure for creditors to appoint a trustee.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 90	Clause 90 amends the 1989 Order with respect to the payment of small debts with out proof of that debt in company insolvency. It also provides new powers to amend the level of that debt, which is initially to be set at £1,000 (see section 2.5 of this Paper).	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.

Clause 91	Clause 91 amends the 1989 Order with respect to the payment of small debts with out proof of that debt in individual insolvency. It also provides new powers to amend the level of that debt, which is initially to be set at £1,000 (see section 2.5 of this Paper).	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.
Clause 94	Clause 94 empowers the DfE to make regulations amend Article 197 of the Insolvency Order using Regulations. It is therefore what is known as a Henry VII power. The Clause allows the DfE to add two further categories of suppliers to the list of "protected suppliers" with respect to company insolvencies, as explained in section 9 of this Paper.	DfE	Draft Affirmative	The Delegated Power Memorandum states that the use of regulation in this case is to account for the "constantly and rapidly changing" nature of electronic goods and services. The use of regulation would allow for quicker responses. The use of Draft Affirmative procedure allows for an Assembly to vote on changes to primary legislation.

Clause 95	Clause 95 allow the DfE to make regulations for the purposes of rendering insolvency related contract terms in the supply of essential goods and services inoperable in respect to company insolvencies. It also includes any regulations to include safeguards for suppliers.	DfE	Draft Affirmative	The DfE is empowered to replicate any changes made to equivalent provision made by the United Kingdom Government, using powers under the Enterprise and Regulatory Act 2013.
Clause 98	Clause 98 would enable the Department to make regulations amend Article 197 of the Insolvency Order to using Regulations. It is therefore what is known as a Henry VII power. The Clause allows the DfE to add two further categories of suppliers to the list of "protected suppliers", with respect to individual insolvencies as explained in section 9 of this Paper.	DfE	Draft Affirmative	The Delegated Power Memorandum states that the use of regulation in this case is to account for the "constantly and rapidly changing" nature of electronic goods and services. The use of regulation would allow for quicker responses. The use of Draft Affirmative procedure would allow the Assembly to vote on changes to primary legislation.

Clause 99	Clause 99 empowers the DfE to make regulations for the purposes of rendering insolvency related contract terms in the supply of essential goods and services inoperable in respect to individual insolvencies. It also includes any regulations to include safeguards for suppliers.	DfE	Draft Affirmative	The powers would allow the DfE to replicate any changes made to equivalent provision made by the United Kingdom Government using powers under the Enterprise and Regulatory Act 2013.
Clause 101	Clause 101 provides the DoJ with new powers to make rules regarding the remote attendance of meetings.	DoJ, with concurrence of DfE	Negative Resolution	The Clause deals with procedures and as noted above it's "normal practice" for such matters to be dealt with by rules, subject to negative resolution.