
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART VI

MULTIPLE DEBT, INSOLVENCY AND WINDING-UP

Administration orders

Power to make administration order on application of debtor

80.—(1) Where a debtor who is an individual—

- (a) is unable to pay forthwith the amount recoverable on foot of a money judgment for an unsecured debt; and
- (b) alleges that all his unsecured debts amount in the aggregate to a sum not exceeding^{F1} £5,000] or such other amount as may be prescribed, by rules (inclusive of the debt for which the judgment was obtained, but, subject to that, regardless of whether any of the debts has been the subject of a judgment or not); and
- (c) furnishes to the Office a list of all his debts and the persons to whom they are owed respectively;

the Office may, on his application, make an order (an “administration order”) providing for the administration of his estate.

(2) An administration order shall not be invalid by reason only that the total amount of the debts is found at any time to exceed the amount mentioned in or prescribed under paragraph (1)(b), but this paragraph does not prejudice the power of the Office to set aside the order.

(3) In this Article and Articles 81 and 83 “unsecured debt” means a debt which is not secured by mortgage, charge or lien on the debtor's property; and in this Article and Articles 81 and 83 to 87 “debt” means, in the case of a debt for which judgment has been obtained, the amount recoverable on foot of the judgment.

F1 SR 1982/121

Provisions for recovery of debts which may be made in, or in connection with, administration order

81.—(1) An administration order may provide for the payment of the unsecured debts of the debtor by instalments or otherwise, and either in full or to such extent as to the Office in the circumstances of the case appears practicable, and subject to any conditions as to his future earnings, income or assets which the Office may think just.

(2) Where the Office makes an administration order in respect of a debtor's estate, it may also make an attachment of earnings order to secure the payments required by the administration order.

(3) At any time when an administration order is in force the Office may (on the application of any person scheduled to the order under Article 83 or without an application) make an attachment

of earnings order to secure the payments required by the administration order, if it appears to the Office that the debtor has failed to make any such payment.

(4) The power of the Office under this Article to make an attachment of earnings order to secure the payments required by an administration order shall, where the debtor is already subject to an attachment of earnings order to secure the payment of the amount recoverable on foot of a judgment, include power to direct that the last-mentioned order shall take effect (with or without variation) as an order to secure the payments required by the administration order.

(5) A provision in an administration order for the payment of any sums by the debtor shall be a provision for their payment to the Office.

Notice of order

82. The Office—

- (a) before making an administration order, shall send to every person whose name the debtor has notified to the Office, as being a person to whom he is indebted, notice that that person's name has been so notified; and
- (b) when an administration order is made, shall send notice of the order to every such person.

Schedule of debts

83.—(1) There shall be scheduled to every administration order a list of the persons whose names the debtor has notified to the Office as being persons to whom he owes unsecured debts and whose debts have been proved in accordance with rules, with the respective amounts of their debts.

(2) Any other person to whom the debtor owes an unsecured debt, on proof of his debt to the Office, shall be entitled to be scheduled to the order for the amount of his proof.

(3) Any person scheduled to the order may, in the manner prescribed by rules, object to any debt scheduled, or to the manner in which payment is directed to be made.

(4) Any person to whom, after the date of the order, a debt becomes due from the debtor shall, on proof of his debt to the Office, be scheduled to the order for the amount of his proof, but shall not be entitled to any dividend under the order until those who are scheduled as having had debts due to them before the date of the order have been paid to the extent provided by the order.

Restriction of other remedies, where administration order made

84.—(1) So long as an administration order is in force, a person who is scheduled to the order shall not, without the leave of the Office, be entitled to present, or join in, a bankruptcy petition against the debtor unless—

- (a) his name was, before the date of the order, notified to the Office by the debtor for the purposes of the order; and
- (b) the debt by virtue of which he presents, or joins in, the petition exceeds^{F2} £1,500] or such other amount as may be prescribed by rules; and
- (c) the notice given to him by the Office in accordance with Article 82(a) was received by him within 28 days immediately preceding the day on which the petition is presented.

(2) Subject to paragraph (3), when an administration order is made, no person to whom a debt scheduled to the order is owed by the debtor shall have any remedy against the person or property of the debtor in respect of that debt, except with the leave of the Office and on such terms as it may impose.

(3) Paragraph (2) shall not prevent the Office making any enforcement order when satisfied that such an order will not prevent or hinder the debtor from carrying out the terms of the administration order.

(4) Where a court in which proceedings, other than bankruptcy proceedings, are pending against the debtor in respect of any debt scheduled to an administration order receives notice of the administration order—

- (a) if it is the High Court, it may; and
- (b) if it is a county court or a court of summary jurisdiction, it shall, Bstay the proceedings, but may allow costs already incurred by the person to whom the debt is owed, and costs so allowed shall, on application to the Office, be added to the debt.

F2 SR 1985/164

Appropriation of money paid under administration order

85. Money paid to the Office under an administration order shall be appropriated—

- (a) first in satisfaction of the expenses of the Office incurred in administering the order (but not in excess of 10p in the pound on the total amount of the scheduled debts); and
- (b) then (without prejudice to Article 90 (bankruptcy supervening)) in liquidation of the debts in accordance with the order and Article 83(4).

[^{F3}Default of debtor

86.—(1) If the debtor fails to make any payment which he is required to make by virtue of an administration order the Office, if it considers it proper to revoke the administration order, may upon doing so make an order directing that this Article and [^{F4} Article 16 of the Companies Directors Disqualification (Northern Ireland) Order 2002] shall apply to the person for such period, not exceeding 2 years, as may be specified in the order.

(2) A person to whom this Article so applies shall not—

- (a) either alone or jointly with another person, obtain credit to the extent of the amount prescribed for the purposes of Article 331(1)(a) of the Insolvency (Northern Ireland) Order 1989 or more, or
- (b) enter into any transaction in the course of or for the purposes of any business in which he is directly or indirectly engaged,

without disclosing to the person from whom he obtains the credit, or (as the case may be) with whom the transaction is entered into, the fact that this Article applies to him.

(3) The reference in paragraph (2) to a person obtaining credit includes—

- (a) a case where goods are bailed or hired to him under a hire#purchase agreement or agreed to be sold to him under a conditional sale agreement, and
- (b) a case where he is paid in advance (whether in money or otherwise) for the supply of goods or services.

(4) A person who contravenes this Article shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.]

F3 1989 NI 19

F4 2002 NI 4

Discharge of administration order

87. When the amount received under an administration order is sufficient to pay each of the persons scheduled to the order to the extent thereby provided and the expenses of the Office, the order shall be superseded, and the debtor shall be discharged from his debts which are included in the schedule.

VALID FROM 30/06/2011

[^{F5} Effect of administration order on debt relief order

87A.—(1) This Article applies if—

- (a) an administration order is made, and
- (b) immediately before the order is made, a debt relief order is in force in respect of the debtor.

(2) The debt relief order ceases to be in force when the administration order is made.

(3) If the Office is aware of the debt relief order, the Office shall give the official receiver notice that the administration order has been made.

(4) In a case where the Office is aware of a debt relief order at the time it makes the administration order, it shall give the notice as soon as practicable after making the order.

(5) In a case where the Office becomes aware of a debt relief order after it makes the administration order, it shall give the notice as soon as practicable after becoming aware of it.

(6) In this Article “debt relief order” means a debt relief order within the meaning of Part 7A of the Order.

(7) For the purposes of this Article a debt relief order is “in force” if the moratorium applicable to the order under Article 208H of the Order has not yet ended.

F5 Arts. 87A, 87B inserted (30.6.2011) by [Debt Relief Act \(Northern Ireland\) 2010 \(c. 16\)](#), ss. 6, 7(1), [Sch. para. 3](#); S.R. 2011/13, [art. 2](#)

VALID FROM 30/06/2011

Notice of administration order ceasing to be in force

87B In a case where an administration order ceases to be in force in accordance with Article 208F of the Order the Office shall send notice of the fact to every person to whom a debt scheduled to the administration order is owed.]

F5 Arts. 87A, 87B inserted (30.6.2011) by [Debt Relief Act \(Northern Ireland\) 2010 \(c. 16\)](#), ss. 6, 7(1), [Sch. para. 3](#); S.R. 2011/13, [art. 2](#)

Bankruptcy and winding-up

Effect of bankruptcy or winding-up on enforcement

88.—(1) Subject to paragraph (2)^{F6} of this Article, Articles 106 and 258 of the Insolvency (Northern Ireland) Order 1989 (restrictions on proceedings and remedies) and, generally, to the following provisions of this Part, a creditor who has obtained a money judgment against a debtor who is subsequently adjudged bankrupt or, being a company, is subsequently wound up under the^{F6} Insolvency (Northern Ireland) Order 1989] shall be entitled—

- (a) ^{F6}as against the official receiver or trustee of the bankrupt's estate] (“the trustee”), as the case may require;
- (b) as against the liquidator in the winding-up of the company (“the liquidator”);

to any money paid by or on behalf of the debtor either to avoid enforcement of the judgment or in full or part satisfaction thereof, or to any proceeds of the enforcement, including any charge on the property of the debtor.

(2) A creditor shall be entitled to any such money or proceeds as are referred to in paragraph (1) where—

- (a) the money (being money received otherwise than as proceeds of enforcement) is paid or the enforcement producing the proceeds is completed before the date^{F6} on which the bankruptcy order is made] or, as the case may be, the date on which the winding-up is under the^{F6} Insolvency (Northern Ireland) Order 1989] deemed to commence; and
- (b) within 21 days after the receipt of the money or, as the case may be, the completion of the enforcement, the creditor or the Office—
 - (i) has not received notice of the^{F6} making of the bankruptcy order] or of a bankruptcy petition^{F6} presented] by or against the debtor or, as the case may require, has not received notice of the presentation of a petition for the winding-up of the company or of the calling of a meeting at which a resolution for the voluntary winding-up of the company is to be proposed; or
 - (ii) has received a notice of such a bankruptcy petition but^{F6} a bankruptcy order] is not at any time made on foot thereof or, as the case may require, has received a notice of the presentation of such a winding-up petition or of the calling of such a meeting but a winding-up order is not at any time made or a resolution for voluntary winding-up is not at any time passed as a result of that petition or, as the case may be, the resolution so proposed.

(3) Save as provided by this Article,^{F6} and Article 90(3A), the official receiver] or the trustee or the liquidator, as the case may be, shall be entitled as against the creditor to such money or proceeds as are referred to in paragraph (1)^{F6} and, subject to paragraph (3A), that money and proceeds shall be comprised in the bankrupt's estate].

^{F6}(3A) The rights conferred by this Article on the official receiver, the trustee or the liquidator may, to such extent and on such terms as it thinks fit, be set aside by the High Court in favour of the creditor.]

(4) Where an administration order has been made, this Article applies to the persons whose names have been scheduled to the order and to money paid to the Office under the order as it applies to a creditor and to proceeds of enforcement.

Completion of enforcement in relation to bankruptcy and winding-up

89. For the purposes of Article 88, enforcement shall be deemed to be completed in relation to—

- (a) money paid to a creditor under an instalment order under Article 30 or Article 107(3), upon receipt of any such payment by the creditor;
- (b) seizure pursuant to an order of seizure under Article 31 or to an authorisation under Article 43, at the date of the sale of the property seized;
- (c) an order charging funds, stock or shares under Article 58, upon the service of a copy of the order on the registrar, authority, undertaking or company (as the case may be) under Article 59;
- (d) a vesting order for funds, stock or shares under Article 60, upon the service of a copy of the order on the registrar, authority, undertaking or company (as the case may be) under paragraph (2)(a) of that Article;
- (e) money paid under a debenture order under Article 61, upon receipt of any such payment by the creditor;
- (f) a partnership order, upon the making of the order;
- (g) money paid to a receiver under an order appointing a receiver under Article 67, upon receipt of any such payment by the receiver;
- (h) an attachment of debts order under Article 69, upon the receipt by the Office of any payment made by the garnishee or upon the making of an order for payment pursuant to Article 70(1), whichever first occurs;
- (i) money paid to the Office under an attachment of earnings order under Article 73, upon receipt of any such payment by the Office;
- (j) money paid to the Office under an administration order, upon receipt of any such payment by the Office; and
- (k) money directed to be paid to a receiver or other person by an order made under section 27 of the Crown Proceedings Act 1947, upon receipt of any such payment by the receiver or other person.

Functions of Office as to proceeds of enforcement, etc.

90.—(1) Without prejudice to Article 88 but subject to Article 91, the Office shall hold any money received to avoid enforcement, or in full or part satisfaction of the enforcement, or as proceeds of the enforcement, for 21 days after—

- (a) the receipt of the money (being money received otherwise than as proceeds of enforcement); or
- (b) the completion of the enforcement;

and if, within that period—

- (i) notice is served upon the Office of a bankruptcy petition^[F7] presented] by or against the debtor, or, where the debtor is a company, of the presentation of a petition of the winding-up of the company or of the calling of a meeting at which a resolution for the voluntary winding-up of the company is to be proposed, the money shall be held by the Office pending the disposal of any such petition or the outcome of the resolution so proposed, as the case may be;
- (ii) notice is served upon the Office of^[F7] a bankruptcy order] against the debtor, the money shall be paid to the^[F7] official receiver] or, as the case may be, the trustee.

(2) If, as a result of the disposal of any such petition or the outcome of any such resolution as is referred in paragraph (1)(i)—

(a) [^{F7} a bankruptcy order] is made against the debtor, the money shall be paid to the [^{F7} official receiver] or, as the case may be, the trustee;

(b) where the debtor is a company, a winding-up order is made or a resolution for the winding-up of the company is passed, as the case may be, the money shall be paid to the liquidator; but if such an order is not made or such a resolution is not passed, as the case may be, the money shall be dealt with as if no such notice as is referred to in paragraph (1) had been served.

(3) Where—

- (a) a debtor is adjudged bankrupt or where a provisional liquidator is appointed or a winding-up order is made or a resolution for voluntary winding-up is passed in respect of a debtor being a company; and
- (b) any money or other property of the debtor is under seizure pursuant to an order of seizure under Article 31 or an authorisation under Article 43;

the money or property shall on demand by the [^{F7} official receiver], trustee or liquidator, as the case may be, be paid or delivered by the Office or any person having custody thereof to the person making the demand [^{F7} and subject to paragraph (3A), that money or property shall be comprised in the bankrupt's estate].

[^{F7}(3A) The rights conferred by this Article on the official receiver, the trustee or the liquidator may, to such extent and on such terms as it thinks fit, be set aside by the High Court in favour of the creditor.

(3B) Paragraph (1)(ii), (2)(a) or (3) shall not apply in relation to money or other property which has been acquired by or has devolved upon the debtor since the making of a bankruptcy order against him unless—

- (a) at the time the money is received or, as the case may be, the money or property is seized; or
- (b) before completion of the enforcement;

the money or other property has been or is claimed for the bankrupt's estate under Article 280 of the Insolvency (Northern Ireland) Order 1989 (after#acquired property) and a copy of the notice given under that Article has been or is served upon the Office.]

(4) For the purposes of this Article money paid to the Office under an administration order shall be treated as proceeds of enforcement.

F7 1989 NI 19

Retention by Office of money or property pending result of interpleader

91. Where, but for this Article, the Office would be required to pay or deliver any money or property to the [^{F8} official receiver], trustee or liquidator under Article 90 and an application is pending under Article 44 in relation to that money or property, the money or property shall be held by the Office until that application has been finally determined.

F8 1989 NI 19

Charge in respect of costs and expenses of enforcement

92. Where, pursuant to this Part, money or property is paid or delivered to the [^{F9} official receiver] or trustee, or, where the debtor is a company, to the liquidator, such costs and expenses of enforcement as may be approved by the Office shall be a first charge on the money or property so

paid or delivered; and the^{F9} official receiver] or trustee or, as the case may be, the liquidator may realise the property or an adequate part thereof for the purpose of satisfying the charge.

F9 1989 NI 19

Special provisions as to charges on land

93. A charge on land under Article 46 shall be void as against^{F10} . . . the trustee or, where the debtor is a company, as against the liquidator if within 28 days after the date of registration of the order charging the land, or of any notice thereof, or of the charge, as the case may be—

- (a) the debtor is adjudged bankrupt or notice is served on the creditor of a bankruptcy petition^{F10} presented] by or against the debtor and^{F10} a bankruptcy order] is at any time made on foot thereof; or
- (b) where the debtor is a company—
 - (i) a winding-up order is made or a resolution is passed for the winding-up of the company; or
 - (ii) notice is served on the creditor of the presentation of a petition for the winding-up of the company or of the calling of a meeting at which a resolution for the voluntary winding-up of the company is to be proposed, and a winding-up order is at any time made or a resolution for the voluntary winding-up of the company is at any time passed as a result of that petition or, as the case may be, the resolution so proposed.

F10 1989 NI 19

Effect of bankruptcy and winding-up on certain orders

94.—(1) An instalment order under Article 30 or a restraining order under Article 66 shall cease to have effect where the debtor is adjudged bankrupt or, where the debtor is a company, upon an order being made or a resolution passed for the winding-up of the company.

(2) An attachment of earnings order under Article 73 shall cease to have effect upon the debtor being adjudged bankrupt.

(3) Nothing in this Article shall make any person liable for anything done or omitted to be done by him in pursuance or purported pursuance of a restraining order or an attachment of earnings order unless and until he has received notice that the order has ceased to have effect by virtue of this Article.

Status:

Point in time view as at 01/01/2006. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Judgments Enforcement (Northern Ireland) Order 1981, PART VI.