

## SCHEDULES

### SCHEDULE 9

#### AMENDMENTS

### PART II

#### OTHER AMENDMENTS

##### (2) ACTS OF THE PARLIAMENT OF NORTHERN IRELAND

###### *The Third Parties (Rights against Insurers) Act(Northern Ireland) 1930 (c. 19)*

- 63.** In section 1 (rights of third parties against insurers on bankruptcy etc. of the insured)—
- (a) in subsection (1)—
    - (i) in paragraph (b) after “winding-up order” insert “or an administration order”;
    - (ii) in paragraph (b) at the end insert “or of a voluntary arrangement proposed for the purposes of Part II of the Insolvency (Northern Ireland) Order 1989 being approved under that Part”;
    - (iii) for “Act” substitute “statutory provision”;
  - (b) in subsection (2)—
    - (i) for the words from “an order is made” to “law of bankruptcy” substitute “the estate of any person falls to be administered in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989”;
    - (ii) for “the Bankruptcy Acts (Northern Ireland) 1857 to 1929” substitute “any such order”;
  - (c) in subsection (3), for the words from “making of an order” to “his estate” substitute “estate of any person falling to be administered in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989”;
  - (d) in subsection (5) at the end insert “and in subsection (1) “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954”.
- 64.** In section 2 (duty to give necessary information to third parties)—
- (a) in subsection (1)—
    - (i) for the words from “an order being made” to “estate of any person” substitute “the estate of any person falling to be administered in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989”;
    - (ii) after “winding-up order” insert “or an administration order”;
    - (iii) after “liquidator” insert “administrator,”;
  - (b) after subsection (1) insert—

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“(1A) The reference in subsection (1) to a trustee includes a reference to the supervisor of a voluntary arrangement proposed for the purposes of, and approved under, Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989.”.

- 65.** In section 3 (settlement between insurers and insured)—
- (a) after “winding-up order” insert “or an administration order”; and
  - (b) after “or winding up” insert “or the day of the making of the administration order”; and
  - (c) after “commencement”, in the second place where it occurs, insert “or day”.

*The Arbitration Act (Northern Ireland) 1937 (c. 8)*

**66.** In section 3(2) (application to Court with consent of committee of inspection in certain cases where party to arbitration agreement adjudged bankrupt) for “committee of inspection” substitute “creditors' committee established under Article 274 of the Insolvency (Northern Ireland) Order 1989”.

*The Pig Production Development Act (Northern Ireland) 1964 (c. 25)*

**67.** In section 11(2) for “Part XXI of the Companies (Northern Ireland) Order 1986” substitute “Part VI of the Insolvency (Northern Ireland) Order 1989”.

*The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (c. 19)*

- 68.** In section 42(5) (which provides for payment of money out of Northern Ireland Redundancy Fund where an employer is insolvent)—
- (a) for paragraphs (a) and (b) substitute—
    - “(a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
    - (b) he had died and his estate falls to be administered in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989; or”;
  - (b) in paragraph (c)—
    - (i) after “winding up order” insert “or an administration order”;
    - (ii) at the end add “or a voluntary arrangement proposed for the purposes of Part II of the Insolvency (Northern Ireland) Order 1989 is approved under that Part”.

*The Transport Act (Northern Ireland) 1967 (c. 37)*

**69.** In section 33(2)(a) (transfer of licences) for the words “adjudicated bankrupt” to the end substitute “adjudged bankrupt or makes a voluntary arrangement proposed for the purposes of, and approved under, Part VIII of the Insolvency (Northern Ireland) Order 1989”.

*The Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24)*

**70.** In section 64 (dissolution of registered society) for “Companies (Northern Ireland) Order 1986” substitute “Insolvency (Northern Ireland) Order 1989”.

*The Land Registration Act (Northern Ireland) 1970 (c. 18)*

- 71.** For section 59 substitute—

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**“59 Transmissions on bankruptcy of registered owner.**

(1) Upon the bankruptcy of the registered owner of any land his trustee shall (on production of the prescribed evidence to be furnished by the official receiver or trustee in bankruptcy that the land is comprised in the bankrupt’s estate) be entitled to be registered as owner of the land or, as the case may be, as a tenant in common of the land with another or others.

(2) Where a trustee in bankruptcy disclaims a registered leasehold estate under Articles 288 to 292 of the Insolvency (Northern Ireland) Order 1989, and an order is made by the High Court vesting the leasehold estate in any person, the order shall direct the alteration of the appropriate register in favour of the person in whom the leasehold estate is so vested, and in such case the Registrar shall, on being served with such order, forthwith (without notice to the bankrupt or any other person and without requiring production of the land certificate) alter the register accordingly, and no right to indemnity under this Act shall arise by reason of such alteration.

**59A Effect of transmissions on bankruptcy.**

(1) Subject to subsection (2), where a trustee in bankruptcy is registered as owner of land he shall in all respects, and in particular as respects registered dealing with the land, be in the same position as if he had taken the land under a transfer for valuable consideration.

(2) The trustee in bankruptcy shall hold the land in respect of which he is registered for the purposes upon and subject to which the land is applicable by law, and subject to all unregistered rights subject to which the bankrupt held the land.”.

72. After section 67 insert—

**“Protection of creditors prior to registration of trustee in bankruptcy.**

**67A.—**(1) If a bankruptcy petition is presented by or against any person who appears to the High Court to be the registered owner of any land, the Court shall give notice to the Registrar of the presenting of the petition, in such manner as may be prescribed, and notice of the presenting of the petition shall thereupon be entered on the appropriate register.

(2) A notice registered under subsection (1) shall protect the rights of all creditors, and unless cancelled by the Registrar in the prescribed manner such notice shall remain in force until a bankruptcy inhibition is registered or the trustee in bankruptcy is registered as owner.

(3) Where a bankruptcy order is made and the bankrupt is a registered owner of land, the official receiver or the trustee in bankruptcy shall notify the Registrar in the prescribed form and the Registrar shall thereupon enter an inhibition (“a bankruptcy inhibition”) against the title of the registered owner of the land.

(4) No fee shall be charged for the entry of a notice under subsection (1) or a bankruptcy inhibition under subsection (3).

(5) From and after the entry of a bankruptcy inhibition (but without prejudice to dealings with or in right of interests having priority over the estate of the bankrupt owner), no dealing affecting the land of the registered owner, other than the registration of the trustee in bankruptcy, shall be entered on the appropriate register until the inhibition is cancelled as to the whole or part of the land dealt with.

(6) Without prejudice to section 34(4), where under a disposition of registered land to a purchaser in good faith for valuable consideration such purchaser is registered as owner of an estate, then, notwithstanding that the person making the disposition is adjudged bankrupt, the title of his trustee in bankruptcy shall, as from the date of the registration of such disposition, be void as against such purchaser unless at that date, either a notice under

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subsection (1) or a bankruptcy inhibition has been registered; but a purchaser who, at the date of the execution of the registered disposition has actual knowledge of the bankruptcy petition or the adjudication, shall be deemed not to take in good faith.

(7) Nothing in this section shall impose on a purchaser a liability to make any search under the Registration of Deeds Acts.

(8) If neither a notice under subsection (1) nor a bankruptcy inhibition is registered against a registered owner of land, nothing in this section shall prejudicially affect a registered disposition of any registered land acquired by the bankrupt after adjudication.

(9) If and when a bankruptcy inhibition is wholly or partially cancelled, for any cause other than by reason of the registration of the trustee in bankruptcy, any registered estate vested in the trustee in bankruptcy shall, as respects the registered estate to which the cancellation extends, be divested and the same shall vest in the registered owner in whom it would have been vested if there had been no adjudication in bankruptcy.”.

73. In section 85(3) (rules) at the end add—

“(q) the postponing of the registration of a notice under section 67A(1) or a bankruptcy inhibition under section 67A(3) where the name, address and description of the debtor or bankrupt appearing in the notice for the registration of the bankruptcy petition or bankruptcy order are not identical to those stated in the appropriate register, until the Registrar is satisfied as to the identity of the debtor or bankrupt;

(r) the requiring of the official receiver to notify to the Registrar any mistake occurring in the bankruptcy order or any other fact relevant to any proposed amendment in the appropriate register; and the enabling of the Registrar to make any consequential amendment;

(s) the providing for the whole or partial cancellation (subject to notice to the official receiver or trustee in bankruptcy) of a bankruptcy inhibition registered under section 67A(3) in prescribed circumstances.”.

74. In section 94 (interpretation) insert the following definitions—

““bankruptcy order” means an order adjudging an individual bankrupt;

“bankruptcy petition” means a petition to the High Court for a bankruptcy order;

“debtor” in relation to a bankruptcy petition, means the individual to whom the petition relates;”.

75. In Part I of Schedule 6 (registration of certain burdens)—

(a) in paragraph 7 after “judgment” insert—

“(other than a bankruptcy order)”;

(b) after paragraph 8 insert—

“8A. Any bankruptcy petition relating to the land whether existing before or after the first registration of the land.”.

76. In Part II of Schedule 6 (provisions affecting registration of Schedule 6 burdens)—

(a) in paragraph 4 after “8” insert “8A”;

(b) after paragraph 6 insert—

*“Registration of bankruptcy petitions*

6A. Paragraph 6 shall apply to the registration of a bankruptcy petition as it applies to the registration of a pending action.”.

*The Registration of Deeds Act (Northern Ireland) 1970 (c. 25)*

77. After section 3 insert—

**“Pending actions relating to bankruptcy.**

**3A.—**(1) A bankruptcy petition, whether or not it is known to affect land, may be registered by the lodgment in the registry of deeds of 2 copies of a prescribed document, stating such matters as may be prescribed, one of which copies shall be certified by the High Court.

(2) The certified copy of the document referred to in subsection (1) shall, for the purposes of the Registration of Deeds Acts, be treated as the document to be registered and the other copy thereof shall, subject to section 12 and to any regulations made thereunder, be treated for those purposes as the memorial of that document.

(3) Subsections (4) and (6) of section 3 apply for the purposes of the registration of a bankruptcy petition under this section as they apply to the registration of a pending action relating to land.

(4) No fee shall be charged for the registration of a bankruptcy petition if the application for registration is made by the High Court.

(5) A bankruptcy petition filed on or after the coming into operation of the Insolvency (Northern Ireland) Order 1989 shall not bind or affect a purchaser of any unregistered land who has acted in good faith without actual knowledge of that petition—

- (a) unless it is registered under this section; and
- (b) before the expiration of 21 days from the date on which it is registered.

(6) In this section and section 3B “purchaser” means—

- (a) any person (including a mortgagee or lessee) who, for valuable consideration, takes any estate in any unregistered land; and
- (b) the agent of any such person.

**Bankruptcy orders.**

**3B.—**(1) Without prejudice to section 2(3), a bankruptcy order, whether or not the bankrupt’s estate is known to include land, may be registered by the lodgment in the registry of deeds of 2 copies of the order one of which copies shall be certified by the High Court and 2 copies of a prescribed document, stating such matters as may be prescribed, one of which copies shall be certified by the official receiver.

(2) The certified copy of the bankruptcy order and the certified copy of the document referred to in subsection (1) shall, for the purposes of the Registration of Deeds Acts, be treated as the document to be registered and the other copy of the bankruptcy order and the document referred to in subsection (1) shall, subject to section 12 and to any regulations made thereunder, be treated for those purposes as the memorial of the document to be registered.

(3) Subsections (4) and (6) of section 3 apply for the purposes of the registration of a bankruptcy order under this section as they apply to the registration of a pending action relating to land.

(4) No fee shall be charged for the registration of a bankruptcy order if the application is made by the official receiver.

(5) Subject to paragraph (6), the title of a trustee in bankruptcy shall be void as against a purchaser of any unregistered land who has acted in good faith without actual knowledge

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of the bankruptcy order claiming under a conveyance registered before the expiration of 21 days from the date on which the bankruptcy order is registered under this section.

(6) Where a bankruptcy petition has been registered under section 3A, the title of the trustee in bankruptcy shall be void against a purchaser of any unregistered land who has acted in good faith without actual knowledge of the petition claiming under a conveyance registered on or after the expiration of 21 days from the date of registration of the petition, unless at the date of the registration of the conveyance either—

- (a) the registration of the petition is in force; or
- (b) a bankruptcy order is registered under this section and 21 days have expired from the date on which the order is registered.”.

**78.** In section 4(1) (effect of registration) for “section 5” substitute “sections 3A(5), 3B(5) and 5”.

**79.** After section 19(2) (regulations) insert—

“(3) The power of the Lord Chancellor, with the concurrence of the Department of Economic Development, to make rules under Article 359 of the Insolvency (Northern Ireland) Order 1989 shall include power to make rules as respects the registration and re-registration of a bankruptcy petition under section 3A and a bankruptcy order under section 3B, as if the registration and re-registration were required by that Order of 1989.

(4) Any rules made by virtue of paragraph (3) shall be made with the concurrence of the Department.”.

**80.** In section 20(1) (interpretation) insert the following definitions—

““bankruptcy order” means an order adjudging an individual bankrupt;

“bankruptcy petition” means a petition to the High Court for a bankruptcy order;”.

*The Friendly Societies Act (Northern Ireland) 1970 (c. 31)*

**81.** In section 77(2) (winding-up of registered friendly societies and branches) for “Companies (Northern Ireland) Order 1986” substitute “Insolvency (Northern Ireland) Order 1989”.

**82.** In section 87(3)(b) (offence for aiding and abetting dissolution) for “Companies (Northern Ireland) Order 1986” substitute “Insolvency (Northern Ireland) Order 1989”.

*The Licensing Act (Northern Ireland) 1971 (c. 13)*

**83.** In section 25(1) (temporary continuance of business on death, bankruptcy, etc.)—

(a) in paragraph (a) for the words from “his business” to “his creditors” substitute “a composition or scheme proposed by him is approved under Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989, or a trustee is appointed under a deed of arrangement under Chapter I of that Part VIII for the benefit of his creditors”;

(b) for the words from “assignees” to “the deed” substitute “person who is for the time being trustee in bankruptcy, supervisor of the composition or scheme, trustee under the deed,”.

*The Local Government Act (Northern Ireland) 1972 (c. 9)*

**84.** For section 5(1) (disqualification by reason of bankruptcy for membership of district council) substitute—

“(1) The disqualifications to which a person adjudged bankrupt is subject under section 4(1)(b) shall cease—

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- (a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and
- (b) if the bankruptcy order is so annulled, on the date of the annulment.”.