

SCHEDULES

SCHEDULE 1

MATTERS FOR DETERMINING UNFITNESS OF DIRECTORS

PART I

MATTERS APPLICABLE IN ALL CASES

1. Any misfeasance or breach of any fiduciary or other duty by the director in relation to the company.

2. Any misapplication or retention by the director of, or any conduct by the director giving rise to an obligation to account for, any money or other property of the company.

3. The extent of the director's responsibility for the company entering into any transaction liable to be set aside under Articles 367 to 369 of the Insolvency Order (provisions against debt avoidance).

4.—(1) The extent of the director's responsibility for any failure by the company to comply with any of the following provisions of the Companies Order, namely—

- (a) Article 229 (companies to keep accounting records);
- (b) Article 230 (where and for how long records to be kept);
- (c) Article 296 (register of directors and secretaries);
- (d) Article 360 (obligation to keep and enter up register of members);
- (e) Article 361 (location of register of members);
- (f) Article 371 (duty of company to make annual returns);
- (g) Articles 405 and 652D (duty of company to deliver particulars of charges on its property).

(2) Until the day appointed by order under Article 1 of the [Companies \(No. 2\) \(Northern Ireland\) Order 1990 \(NI 10\)](#) for the coming into operation of paragraph 2 of Schedule 2 to that Order, sub-paragraph (l) shall have effect as if for paragraph (g) there were substituted—

“(g) Article 406 (company's duty to register charges it creates)”.

5. The extent of the director's responsibility for any failure by the directors of the company to comply with—

- (a) Article 234 or 235 of the Companies Order (duty to prepare annual accounts); or
- (b) Article 241 of that Order (approval and signature of accounts).

6. In the application of this Part in relation to any person who is a director of an investment company with variable capital, any reference to a provision of the Companies Order shall be taken to be a reference to the corresponding provision of any regulations for the time being having effect under the Open-Ended Investment Companies Act (Northern Ireland) 2002 or of any rules made under such regulations by the Financial Services Authority.

7. In the application of this Schedule to the directors of a building society, references to provisions of this Order or of the Companies Order other than provisions which apply to building societies or

their directors in any event, whether by virtue of this Order or the Building Societies Act 1986, shall be construed as references to the corresponding provisions (if any) of the Building Societies Act 1986

PART II

MATTERS APPLICABLE WHERE COMPANY HAS BECOME INSOLVENT

8. The extent of the director's responsibility for the causes of the company becoming insolvent.
9. The extent of the director's responsibility for any failure by the company to supply any goods or services which have been paid for (in whole or in part).
10. The extent of the director's responsibility for the company entering into any transaction or giving any preference, being a transaction or preference liable to be set aside under Article 107 or Articles 202 to 205 of the Insolvency Order.
11. The extent of the director's responsibility for any failure by the directors of the company to comply with Article 84 of the Insolvency Order (duty to call creditors' meeting in creditors' voluntary winding up).
12. Any failure by the director to comply with any obligation imposed on him by or under any of the following provisions of the Insolvency Order—
 - (a) Article 34 (company's statement of affairs in administration);
 - (b) Article 57 (statement of affairs to administrative receiver);
 - (c) Article 85 (directors' duty to attend meeting; statement of affairs in creditors' voluntary winding up);
 - (d) Article 111 (statement of affairs in winding up by the High Court);
 - (e) Article 198 (duty of anyone with company's property to deliver it up);
 - (f) Article 199 (duty to co-operate with liquidator, etc.).

SCHEDULE 2

TRANSITIONAL PROVISIONS AND SAVINGS

1. In this Schedule, "the commencement date" for the purposes of any provision of this Schedule, means the day appointed under Article 1 for the coming into operation of that provision.
2. Where any period of time specified in any provision repealed by Article 26(3) and Schedule 4 is current immediately before the commencement date, this Order has effect as if the corresponding provision had been in operation when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current is deemed for the purposes of this Order—
 - (a) to run from the date or event from which it was running immediately before the commencement date, an
 - (b) to expire (subject to any provision of this Order for its extension) whenever it would have expired if this Order had not been passed;and any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such a period as above mentioned shall be under this Order as they were or would have been under that repealed provision.
3. The provision of this Schedule shall have effect without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 (c. 33).

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS

The Judgments Enforcement (Northern Ireland) Order 1981 (NI 6)

1. In Article 86(1) (default of debtor), for “Article 15 of the Companies (Northern Ireland) Order 1989” substitute “Article 16 of the Company Directors Disqualification (Northern Ireland) Order 2002”.

The Insolvency Act 1986 (c. 45)

2. In section 426(10)(c) (co-operation between courts exercising jurisdiction in relation to insolvency) for “or Part II of the Companies (Northern Ireland) Order 1989” substitute “or the Company Directors Disqualification (Northern Ireland) Order 2002”.

The Companies (Northern Ireland) Order 1986 (NI 6)

3. In Article 2A (relationship of Companies Order to Insolvency Order)—

(a) in paragraph (2) for “and Part II of the Companies (Northern Ireland) Order 1989” substitute “and the Company Directors Disqualification (Northern Ireland) Order 2002”;

(b) in paragraph (3) for “and Part II of the Companies (Northern Ireland) Order 1989” substitute “and the Company Directors Disqualification (Northern Ireland) Order 2002”.

4. In Article 434(1) (inspector’s report to be evidence) for “Article 11 of the Companies (Northern Ireland) Order 1989” substitute “Article 11 of the Company Directors Disqualification (Northern Ireland) Order 2002”.

5. In Article 442(1)(b) (provision for security of information obtained) for “Articles 9, 10 or 11 of the Companies (Northern Ireland) Order 1989” substitute “Article 9, 10 or 11 of the Company Directors Disqualification (Northern Ireland) Order 2002”.

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

6. For Article 349(4)(b) (persons not qualified to act as insolvency practitioners) substitute—

“(b) he is subject to a disqualification order made or a disqualification undertaking accepted under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002, or”.

7. In Schedule 5 (provisions capable of inclusion in company insolvency rules)

(a) in paragraph 26, for “Article 10(3) of the Companies (Northern Ireland) Order 1989” substitute “Article 10(4) of the Company Directors Disqualification (Northern Ireland) Order 2002”; and

(b) in paragraph 29, for “Article 10(4) of the Companies (Northern Ireland) Order 1989” substitute “Article 10(5) of the Company Directors Disqualification (Northern Ireland) Order 2002”.

The Electricity (Northern Ireland) Order 1992 (NI 1)

8. In Article 73(6) (initial Government holding in the companies), for “Part II of the Companies (Northern Ireland) Order 1989” substitute “the Company Directors Disqualification (Northern Ireland) Order 2002”.

Status: This is the original version (as it was originally made).

The Airports (Northern Ireland) Order 1994 (NI 1)

9. In Article 57(6) (initial Government holding in the successor company), for “Part II of the Companies (Northern Ireland) Order 1989” substitute “the Company Directors Disqualification (Northern Ireland) Order 2002”.

The Pensions (Northern Ireland) Order 1995 (NI 22)

10. In Article 4(1)(e) (suspension orders), for “Part II of the Companies (Northern Ireland) Order 1989” substitute “the Company Directors Disqualification (Northern Ireland) Order 2002”.

11. In Article 29(1)(f) (persons disqualified for being trustees of trust schemes), for the words from “under Part II” to “an order” substitute “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002 or to such an order or undertaking”.

12. In Article 106(2)(c) (permitted disclosure of restricted information), for “Article 10 or 11 of the Companies (Northern Ireland) Order 1989” substitute “Article 10 or 11 of the Company Directors Disqualification (Northern Ireland) Order 2002”.

The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)

13. In Article 12(6) (official receiver), in the definition of “the insolvency legislation”, for “Part II of the Companies (Northern Ireland) Order 1989” substitute “the Company Directors Disqualification (Northern Ireland) Order 2002”.

14. In Schedule 3 (functions of official receiver which cannot be contracted out), in paragraph 9, for “Part II of the Companies (Northern Ireland) Order 1989” substitute “the Company Directors Disqualification (Northern Ireland) Order 2002”.

SCHEDULE 4

REPEALS

<i>Short Title</i>	<i>Extent of repeal</i>
The Companies (Northern Ireland) Order 1989 (NI 18).	Part II. Schedules 1 to 3.
The Companies (Northern Ireland) Order 1990 (NI 5).	In Part II of Schedule 10, paragraph 31.
The Companies (No. 2) (Northern Ireland) Order 1990 (NI 10).	Articles 26 and 74(4). In Schedule 2, paragraph 2.
The Criminal Justice Act 1993 (c. 36).	In Part II of Schedule 5, paragraph 21.
The Deregulation and Contracting Out Act 1994 (c. 40).	In Schedule 11, paragraph 10.
The Youth Justice and Criminal Evidence Act 1999 (c. 23).	In Schedule 3, paragraph 22. In Schedule 4, paragraph 18.