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## STATUTORY INSTRUMENTS

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# 2005 No. 255

## The Pensions (Northern Ireland) Order 2005

### PART III THE BOARD OF THE PENSION PROTECTION FUND CHAPTER 2 INFORMATION RELATING TO EMPLOYER'S INSOLVENCY ETC.

#### *Insolvency events*

##### **Duty to notify insolvency events in respect of employers**

**104.**—(1) <sup>F1</sup> This Article applies where, in the case of an occupational pension scheme, an insolvency event occurs in relation to the employer.

(2) The insolvency practitioner in relation to the employer must give a notice to that effect within the notification period to—

- (a) the Board,
- (b) the Regulator, and
- (c) the trustees or managers of the scheme.

<sup>F1</sup>(3) For the purposes of paragraph (2) the “notification period” is the prescribed period beginning with the later of—

- (a) the insolvency date, and
- (b) the date the insolvency practitioner becomes aware of the existence of the scheme.

<sup>F1</sup>(4) A notice under this Article must be in such form and contain such information as may be prescribed.

**F1** mod. by SR 2005/91

##### **Insolvency event, insolvency date and insolvency practitioner**

**105.**—(1) In this Part each of the following expressions has the meaning given to it by this Article—

- “insolvency event”,
- “insolvency date”,
- “insolvency practitioner”.

(2) An insolvency event occurs in relation to an individual where—

- (a) he is adjudged bankrupt;

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**Changes to legislation:** The Pensions (Northern Ireland) Order 2005, Cross Heading: Insolvency events is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (b) the nominee in relation to a proposal for a voluntary arrangement under Chapter 2 of Part VIII of the Insolvency Order submits a report to the Court under Article 230(1) or 230A(3) of that Order which states that in his opinion a meeting of the individual's creditors should be summoned to consider the debtor's proposal;
- <sup>F2</sup>(c) .....
- (d) he executes a trust deed for his creditors or enters into a composition contract;
- (e) he has died and an insolvency administration order is made in respect of his estate in accordance with an order under Article 365 of that Order.
- (3) An insolvency event occurs in relation to a company where—
  - (a) the nominee in relation to a proposal for a voluntary arrangement under Part II of the Insolvency Order submits a report to the Court under Article 15 of that Order (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the company and its creditors should be summoned to consider the proposal;
  - (b) the directors of the company file with the Court documents and statements in accordance with paragraph 18(1) of Schedule A1 to that Order (moratorium where directors propose voluntary arrangement);
  - (c) an administrative receiver within the meaning of Article 5 of that Order is appointed in relation to the company;
  - (d) the company enters administration within the meaning of paragraph 2(2)(b) of Schedule B1 to that Order;
  - (e) a resolution is passed for a voluntary winding up of the company without a declaration of solvency under Article 75 of that Order;
  - (f) a meeting of creditors is held in relation to the company under Article 81 of that Order (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
  - (g) an order for the winding up of the company is made by the Court under Part V or VI of that Order.
- (4) An insolvency event occurs in relation to a partnership where—
  - (a) an order for the winding up of the partnership is made by the Court under any provision of the Insolvency Order (as applied by an order under Article 364 of that Order (insolvent partnerships));
  - (b) the nominee in relation to a proposal for a voluntary arrangement under Part II of that Order (as applied by an order under Article 364 of that Order) submits a report to the Court under Article 15 of that Order (procedure where nominee is not the liquidator or administrator) which states that in his opinion meetings of the members of the partnership and the partnership's creditors should be summoned to consider the proposal;
  - (c) the members of the partnership file with the Court documents and statements in accordance with paragraph 18(1) of Schedule A1 to that Order (moratorium where directors propose voluntary arrangement) (as applied by an order under Article 364 of that Order);
  - <sup>F3</sup>(d) the partnership enters administration within the meaning of paragraph 2(2)(b) of Schedule B1 to that Order (as applied by an order under Article 364 of that Order).]
- (5) An insolvency event also occurs in relation to a person where an event occurs which is a prescribed event in relation to such a person.
- (6) Except as provided by paragraphs (2) to (5), for the purposes of this Part an event is not to be regarded as an insolvency event in relation to a person.

(7) The Department may by order amend paragraph (4)(d) to make provision consequential upon any order under Article 364 of the Insolvency Order (insolvent partnerships) applying the provisions of Part III of that Order (administration) as amended by the Insolvency (Northern Ireland) Order 2005.

(8) “Insolvency date”, in relation to an insolvency event, means the date on which the event occurs.

(9) “Insolvency practitioner”, in relation to a person, means—

- (a) a person acting as an insolvency practitioner, in relation to that person, in accordance with Article 3 of the Insolvency Order,
- (b) in such circumstances as may be prescribed, a person of a prescribed description.

(10) In this Article—

“company” means a company [<sup>F4</sup>as defined in section 1(1) of the Companies Act 2006] or a company which may be wound up under Part VI of the Insolvency Order (unregistered companies);

“person acting as an insolvency practitioner”, in relation to a person, includes the official receiver acting as receiver or manager of any property of that person.

(11) In applying Article 3 of the Insolvency Order under paragraph (9), Article 3(5) of that Order (which includes provision that nothing in the Article applies to anything done by the official receiver) must be ignored.

(12) In relation to any time before the coming into operation of Article 3 of the Insolvency (Northern Ireland) Order 2005, paragraph (3) shall have effect as if for sub-paragraph (d) there were substituted—

“(d) an administration order is made by the Court under Article 21 of that Order;” .

**F2** Art. 105(2)(c) repealed (1.4.2016) by [Insolvency \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 2\)](#), s. 28(2), [Sch. 4](#); [S.R. 2016/203](#), art. 2

**F3** Art. 105(4)(d) substituted (9.1.2007) by [Pension Protection Fund \(Insolvent Partnerships\) \(Amendment of Insolvency Events\) Order \(Northern Ireland\) 2006 \(S.R. 2006/529\)](#), [art. 2](#)

**F4** Art. 105(10): words in definition of "company" substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 252\(7\)](#) (with art. 10)

#### Modifications etc. (not altering text)

**C1** Art. 105(3)(d) modified (4.1.2024) by S.I. 2021/716, Sch. 3 para. 4(2) (as inserted by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), [21\(6\)\(b\)\)](#)

#### Commencement Information

**I1** Art. 105(9)(b) in operation at 25.6.2014 by [S.R. 2014/183](#), [art. 2](#)

**Changes to legislation:**

The Pensions (Northern Ireland) Order 2005, Cross Heading: Insolvency events is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 6 para. 21(2)(c)-(cc) substituted for (b)(c) by [2008 c. 13 \(N.I.\) Sch. 6 para. 11](#)
- art. 2(4)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 21\(3\)\(b\)](#)
- art. 19(1A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(3\)](#)
- art. 19(10A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(5\)](#)
- art. 34(1)-(1B) substituted for art. 34(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 25](#)
- art. 34(7)(da) inserted by [2021 c. 1 Sch. 8 para. 3\(2\)](#)
- art. 39(1)-(1B) substituted for art. 39(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(2\)](#)
- art. 48(1)-(1B) substituted for art. 48(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 27](#)
- art. 75(1)(a)(iib) inserted by [2021 c. 1 Sch. 8 para. 8\(2\)](#)
- art. 110(1)-(1B) substituted for art. 110(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 29](#)
- art. 191(5) added by [2008 c. 13 \(N.I.\) Sch. 9 para. 6](#)
- art. 267(4)(f) and word inserted by [2021 c. 1 Sch. 6 para. 20\(b\)](#)