

1991 No. 438 (C. 22)**COMPANIES****FINANCIAL SERVICES****Companies (1990 No. 2 Order) (Commencement No. 5)
Order (Northern Ireland) 1991**

Made 25th September 1991

The Department of Economic Development, in exercise of the powers conferred on it by Article 1 of the Companies (No. 2) (Northern Ireland) Order 1990(a) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(b) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Companies (1990 No. 2 Order) (Commencement No. 5) Order (Northern Ireland) 1991.

(2) In this Order “the 1986 Order” means the Companies (Northern Ireland) Order 1986(c) and “the 1990 (No. 2) Order” means the Companies (No. 2) (Northern Ireland) Order 1990.

(3) In this Order—

- (a) “insolvency proceedings” means proceedings in relation to any case where—
- (i) a receiver or manager of the whole (or substantially the whole) of a company’s property is appointed, or
 - (ii) a petition is presented to the court for the winding up of a company; or
 - (iii) a resolution is made for the voluntary winding up of a company and no director’s statutory declaration of solvency has been made; or
 - (iv) a petition is presented to the court to obtain adjudication of bankruptcy; or
 - (v) a petition is presented to the court for protection under section 343 of the Irish Bankrupt and Insolvent Act 1857(d); or
 - (vi) a petition is presented to the court for the administration according to the law of bankruptcy of the estate of a deceased debtor; or

(a) S.I. 1990/1504 (N.I. 10)
(b) 1974 c. 28
(c) S.I. 1986/1032 (N.I. 6)
(d) 1857 c. 60

- (vii) a debtor has entered into a deed of arrangement for the benefit of his creditors generally to which the Deeds of Arrangement Act 1887(a) applies;
- (b) references to the beginning of insolvency proceedings are to the time at which—
 - (i) the receiver or manager referred to in sub-paragraph (a)(i) is appointed; or
 - (ii) the petition referred to in sub-paragraph (a)(ii), (iv), (v) or (vi) is presented; or
 - (iii) a resolution referred to in sub-paragraph (a)(iii) is made; or
 - (iv) a deed of arrangement referred to in sub-paragraph (a)(vii) is registered.

Provisions of the 1990 (No. 2) Order brought into operation by this Order

2. The following provisions of the 1990 (No. 2) Order shall come into operation on 1st October 1991:

- (a) Part II, insofar as not already in operation except for Article 13(2)(g) thereof to the extent that it refers to a body established by order under Article 48 of the Companies (Northern Ireland) Order 1990(b);
- (b) Article 60, subject to the transitional provisions set out in Article 3;
- (c) Article 61; insofar as it is not already in operation, and
- (d) in Part V, Articles 79 to 91, 95 to 97, 99, 101, 102 and 104 to 112, subject, in the case of Articles 83, 89, 96(1), 97, 99, 101 and 102, to the transitional provisions specified in Article 4.

Transitional provisions relating to Article 60 of the 1990 (No. 2) Order

3.—(1) Notwithstanding the repeal of Article 658(2) and (3) of the 1986 Order, as originally enacted, by the coming into operation by virtue of this Order of Article 60 of the 1990 (No. 2) Order, Article 658(2) and (3), as originally enacted, shall continue to have effect, with the modifications set out in paragraph (2), to the extent that the repeal of Article 658(2) and (3) by section 212(3) of, and Part II of Schedule 17 to, the Financial Services Act 1986(c) has not been brought into force by order under section 211 of that Act.

(2) Article 658(2), as originally enacted, shall continue to have effect by virtue of this Article as if the reference therein to the “rights conferred by paragraph (1)” was a reference to the rights conferred by Article 658(1) of the 1986 Order as substituted by Article 60 of the 1990 (No. 2) Order and the reference to “those rights” in Article 658(3), as originally enacted, shall be construed accordingly.

(a) 1887 c. 57

(b) S.I. 1990/593 (N.I. 5)

(c) 1986 c. 60

Transitional provisions relating to provisions of Part V of the 1990 (No. 2) Order brought into operation by this Order

4.—(1) Article 83 of the 1990 (No. 2) Order shall not impose a duty on any person where insolvency proceedings relating to the defaulter in question have begun before the Article comes into operation.

(2) Article 89 of the 1990 (No. 2) Order shall not have effect to enable a direction to be given where insolvency proceedings relating to the person in question have begun before the Article comes into operation.

(3) Articles 96(1) and 97 of the 1990 (No. 2) Order shall not have effect where the relevant insolvency proceedings have begun before the Articles come into operation.

(4) Article 99 of the 1990 (No. 2) Order shall not have effect where the property is held as margin at the time the Article comes into operation.

(5) Article 101 of the 1990 (No. 2) Order shall not have effect where the property is subject to the relevant market charge at the time the Article comes into operation.

(6) Article 102 of the 1990 (No. 2) Order shall not have effect to prevent the continuation of any execution or other legal process commenced, or the continued levying of any distress begun, before the Article comes into operation.

Repeals

5. The repeals effected by Schedule 6 to the 1990 (No. 2) Order in or of:

(a) Articles 2A(2), 433, 453(1), 661 and 664 of the 1986 Order;

(b) section 198(3) of the Financial Services Act 1986;

(c) sections 55(c) and 72(4) of the Criminal Justice (Scotland) Act 1987(a), and

(d) section 145(c) of the Criminal Justice Act 1988(b)

together with Article 113, so far as relating to those repeals, shall come into operation on 1st October 1991.

Sealed with the Official Seal of the Department of Economic Development on 25th September 1991.

(L.S.)

A. H. McAlister

Assistant Secretary

(a) 1987 c. 41

(b) 1988 c. 33

(This note is not part of the Order.)

This Order brings into operation on 1st October 1991 certain of the provisions of the Companies (No. 2) (Northern Ireland) Order 1990 (“the 1990 (No. 2) Order”).

Article 2 brings into operation—

- (a) the provisions in Part II of the 1990 (No. 2) Order (investigations and powers to obtain information) which are not already in operation except Article 13(2)(g) to the extent that it refers to a body established by order under Article 48 of the Companies (Northern Ireland) Order 1990;
- (b) in Part IV of the 1990 (No. 2) Order (other amendments of company law) Articles 60 and, so far as not already in operation, 61, and
- (c) Part V (financial markets and insolvency) with the exception of Articles 92 to 94, 98, 100 and 103.

Article 3 makes transitional provisions relating to Article 60 of the 1990 (No. 2) Order while Article 4 makes transitional provisions relating to certain provisions of Part V of the 1990 (No. 2) Order brought into operation by this Order.

Article 5 brings into operation certain repeals effected by Article 113 of and Schedule 6 to the 1990 (No. 2) Order.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order.)

The following provisions of the Companies (No. 2) (Northern Ireland) Order 1990 have been brought into operation or will be brought into operation by commencement order made before the date of this Order:—

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. No.</i>
Arts. 1 to 7	11th March 1991	1991 No. 26 (C. 2)
Arts. 9 to 12	11th March 1991	1991 No. 26 (C. 2)
Art. 13 (partially)	11th March 1991	1991 No. 26 (C. 2)
Arts. 14 to 23	11th March 1991	1991 No. 26 (C. 2)
Arts. 24 and 25 (partially)	11th March 1991	1991 No. 26 (C. 2)
Arts. 26 and 27	11th March 1991	1991 No. 26 (C. 2)
Arts. 44 to 47	19th August 1991	1991 No. 289 (C. 14)
Arts. 48 to 58	11th March 1991	1991 No. 26 (C. 2)
Art. 59	19th August 1991	1991 No. 289 (C. 14)
Art. 61 (partially)	19th August 1991	1991 No. 289 (C. 14)
Art. 62, Sch. 3	20th May 1991	1991 No. 153 (C. 9)
Arts. 64 and 65, Sch. 4	20th May 1991	1991 No. 153 (C. 9)
Arts. 66 and 67	11th March 1991	1991 No. 26 (C. 2)
Art. 69 (partially)	11th March 1991	1991 No. 26 (C. 2)
Art. 70	19th August 1991	1991 No. 289 (C. 14)
Arts. 71 and 72	11th March 1991	1991 No. 26 (C. 2)
Art. 73	20th May 1991	1991 No. 153 (C. 9)
Art. 74	1st October 1991	1991 No. 398 (C. 18)
Art. 75	11th March 1991	1991 No. 26 (C. 2)
Art. 78 (partially), Sch. 5 (partially)	11th March 1991 or 19th March 1991 or 1st October 1991	1991 No. 26 (C. 2) or 1991 No. 289 (C. 14) or 1991 No. 398 (C. 18)
Art. 113 (partially) Sch. 6 (partially)	11th March 1991 or 20th May 1991 or 19th August 1991 or 1st October 1991	1991 No. 26 (C. 2) or 1991 No. 153 (C. 9) or 1991 No. 289 (C. 14) or 1991 No. 398 (C. 18)