

2006 No.

INSOLVENCY

**The Insolvent Partnerships (Amendment) Order (Northern
Ireland) 2006**

Made - - - - 2006

Coming into operation - 8th January 2007

To be laid before Parliament

The Lord Chancellor, with the concurrence of the Lord Chief Justice and the Department of Enterprise, Trade and Investment^(a) makes the following Order in exercise of the powers conferred by Article 364 of the Insolvency (Northern Ireland) Order 1989^(b) and Article 24(1) of the Company Directors Disqualification (Northern Ireland) Order 2002^(c).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Insolvent Partnerships (Amendment) Order (Northern Ireland) 2006 and shall come into operation on (“the commencement date”).

(2) In this Order—

“the Order” means the Insolvency (Northern Ireland) Order 1989, and

“the 1995 Order” means the Insolvent Partnerships Order (Northern Ireland) 1995^(d)

Transitional provisions

2. The amendments to the 1995 Order set out in Articles 4, 7 and 14 do not apply where a petition for an administration order has been presented in relation to an insolvent partnership before the commencement date.

Amendments to the Arrangement of Articles to the 1995 Order

3. In the Arrangement of Articles in the 1995 Order—

(a) for the Heading “ADMINISTRATION ORDERS” below “PART III” substitute “ADMINISTRATION.”;

(b) for the words “6. Administration order in relation to insolvent partnership” substitute the words “6. Administration in relation to insolvent partnership.”;

(a) Formerly the Department of Economic Development, see the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1))

(b) S.I. 1989/2405 (N.I. 19) – to which the most recent relevant amendments were made by S.R. 2002 No. 223

(c) S.I. 2002/3150 (N.I. 4)

(d) S.R. 1995 No. 225 as amended by S.R. 1996 No. 472, S.R. 2003 No. 144, S.R. 2003 No. 359, S.R. 2003 No. 550 and S.I. 2004 No. 355.

- (c) for the words “Schedule 1 – Modified provisions of Part II of the Order (company voluntary arrangements) as applied by Article 4” substitute the words “Schedule 1 – Modified provisions of Part II of, and Schedule A1 to, the Order (company voluntary arrangements) as applied by Article 4”;
- (d) for the words “Schedule 2 – Provisions of the Order which apply with modifications for the purposes of Article 6 to administration orders in relation to insolvent partnerships” substitute the words “Provisions of the Order which apply with modifications for the purposes of Article 6 to administrations in relation to insolvent partnerships.”

Amendments to Part III of the Insolvent Partnerships Order (Northern Ireland) 1995

4. For Part III of the 1995 Order (administration orders) substitute—

**“PART 3
ADMINISTRATION**

Administration in relation to insolvent partnership

6.—(1) The provisions of Part III of, and Schedule B1 to, the Order shall apply in relation to an insolvent partnership, certain of those provisions being modified in such manner that, after modification, they are as set out in Schedule 2.

(2) For the purposes of the provisions of the Order applied by paragraph (1), the provisions of the Order specified in paragraph (3) (including any related Schedule) insofar as they relate to the appointment of an administrator, shall also apply in relation to insolvent partnerships.

(3) The provisions referred to in paragraph (2) are—

- (a) Articles 2 to 7 in Part 1,
- (b) Part VII,
- (c) Part XI,
- (d) Part XII,
- (e) Articles 359 to 363 in Part XIII, and
- (f) Part XIV.”.

Amendment to Article 10 of the Insolvent Partnerships Order (Northern Ireland) 1995

5. For Article 10(6) of the 1995 Order substitute—

“(6) Certain of the provisions referred to in paragraphs (2) and (4) are modified in their application in relation to the corporate or individual members of insolvent partnerships in such manner that, after modification, they are as set out in Part II of Schedule 4.”.

Amendments to Schedule 1 to the Insolvent Partnerships Order (Northern Ireland) 1995

6.—(1) Schedule 1 to the 1995 Order (modified provisions of Part II of, and Schedule A1 to, the Order (company voluntary arrangements) as applied by Article 4) is amended as follows.

(2) In modified Article 14 (those who may propose an arrangement)—

- (a) in paragraph (1) for “for which an administration order is in force” substitute “which is in administration”;
- (b) in paragraph (3)(a) for “an administration order is in force in relation to the partnership” substitute “the partnership is in administration”;
- (c) omit modified paragraph (4).

- (3) In modified Article 18 (effect of approval)—
- (a) in paragraph (3) for “an administration order” substitute “is in administration”;
 - (b) in paragraph (3)(a)(ii) for “discharge the administration order” substitute “provide for the appointment of the administrator to cease to have effect”.
- (4) In modified Article 19 (challenge of decisions) in paragraph (2)(d) for “an administration order or” substitute “is in administration or an”.
- (5) In modified paragraph 3 of Schedule A1—
- (a) in sub-paragraph (3)(a) for “£2.8” substitute “£5.6”; and
 - (b) in sub-paragraph (3)(b) for “£1.4” substitute “£2.8”.
- (6) In modified paragraph 4(1)(a) of Schedule A1 for “an administration order is in force in relation to the insolvent partnership” substitute “the partnership is in administration”.
- (7) For modified paragraph 23(1)(d) of Schedule A1 substitute—
- “(d) no administration application may be made in respect of the partnership,
 - (da) no administrator of the partnership may be appointed under paragraph 23 of Schedule B1,”.
- (8) For modified paragraph 50(7) of Schedule A1 substitute—
- “(7) Sub-paragraph (8) applies where—
 - (a) the appointment of an administrator has effect in relation to the insolvent partnership and the appointment took effect before the moratorium came into force, or
 - (b) the insolvent partnership is being wound up as an unregistered company or an order by virtue of Article 11 of the Insolvent Partnerships Order (Northern Ireland) 1995 has been made, in pursuance of a petition presented before the moratorium came into force.
- (8) No application for an order under this paragraph may be made by a creditor or member of the insolvent partnership; but such an application may be made instead by the administrator (or as the case may be) the liquidator.”.

Amendment to Schedule 2 to the Insolvent Partnerships Order (Northern Ireland) 1995

7. For Schedule 2 to the 1995 Order (modified provisions of the Order applying for purposes of Article 6) substitute the provisions set out in Schedule 1.

Amendment to Schedule 3 to the Insolvent Partnerships Order (Northern Ireland) 1995

8.—(1) Schedule 3 to the 1995 Order (modified provisions of the Order applying for purposes of Article 7) is amended as follows.

(2) In paragraph 3 of Part I (Article 185: Winding up of unregistered companies), in modified Article 185(6) after “103” insert “150A,”.

(3) In paragraph 10 of Part II (modifications to Schedule 2) insert after modified paragraph 3 of modified Schedule 2 (powers of liquidator in a winding up) the following—

“**3A.** Power to bring legal proceedings under Article 177, 178, 202, 203 or 367”

Amendments to Schedule 4 of the Insolvent Partnerships Order (Northern Ireland) 1995

9.—(1) Schedule 4 to the 1995 Order (modified provisions of the Order applying for purposes of Article 8) is amended as follows.

(2) In paragraph 1(2) after “245” insert “256A” and after “278” insert “286A”.

(3) In modified Article 185(6) after “132” insert “,150A,”.

(4) In paragraph 15 of Part II (Article 119: appointment by the High Court following administration or voluntary arrangement), in modified Article 119(2) for “discharge of an administration order in respect of the partnership” substitute “appointment of an administrator in respect of the partnership ceasing to have effect” and for “who has ceased on the discharge of the administration order to be the administrator of the partnership” substitute “whose appointment as administrator has ceased to have effect”.

(5) After paragraph 27 of Part II (Article 198: getting in the partnership property) insert new paragraph 27A as follows:—

“**27A.** Article 256A: Individual member’s home ceasing to form part of estate

Article 356A is modified so as to read as follows:—

“**256A.**—(1) This Article applies where property comprised in the estate of an individual member consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—

- (a) the individual member;
- (b) the individual member’s spouse or civil partner, or
- (c) a former spouse or former civil partner of the individual member.

(2) At the end of the period of 3 years beginning with the date of the bankruptcy the interest mentioned in paragraph (1) shall—

- (a) cease to be comprised in the individual member’s estate, and
- (b) vest in the individual member (without conveyance, assignment or transfer).

(3) Paragraph (2) shall not apply if during the period mentioned in that paragraph—

- (a) the trustee realises the interest mentioned in paragraph (1),
- (b) the trustee applies for an order for sale in respect of the dwelling-house,
- (c) the trustee applies for an order for possession of the dwelling-house,
- (d) the trustee applies for an order under Article 286 in Chapter IV in respect of that interest, or
- (e) the trustee and the individual member agree that the individual member shall incur a specified liability to his estate (with or without the addition of interest from the date of the agreement) in consideration of which the interest mentioned in paragraph (1) shall cease to form part of the estate.

(4) Where an application of a kind described in paragraph (3)(b) to (d) is made during the period mentioned in paragraph (2) and is dismissed, unless the High Court orders otherwise the interest to which the application relates shall on the dismissal of the application—

- (a) cease to be comprised in the individual member’s estate, and
- (b) vest in the individual member (without conveyance, assignment or transfer).

(5) If the individual member does not inform the trustee or the official receiver of his interest in a property before the end of the period of 3 months beginning with the date of the bankruptcy, the period of 3 years mentioned in paragraph (2)—

- (a) shall not begin with the date of the bankruptcy, but
- (b) shall begin with the date on which the trustee or official receiver becomes aware of the individual member’s interest.

(6) The High Court may substitute for the period of 3 years mentioned in paragraph (2) a longer period—

- (a) in prescribed circumstances, and
- (b) in such other circumstances as the Court thinks appropriate.

(7) The rules may make provision for this Article to have effect with the substitution of a shorter period for the period of 3 years mentioned in paragraph (2) in specified circumstances (which may be described by reference to action to be taken by a trustee in bankruptcy).

(8) The rules may also, in particular, make provision—

- (a) requiring or enabling the trustee of an individual member's estate to give notice that this Article applies or does not apply;
- (b) about the effect of a notice under sub-paragraph (a);
- (c) requiring the trustee of an individual member's estate to make an application to the Land Registry or the Registry of Deeds.

(9) Rules under paragraph (8)(b) may, in particular—

- (a) disapply this Article;
- (b) enable the High Court to disapply this Article;
- (c) make provision in consequence of a disapplication of this Article;
- (d) enable the Court to make provision in consequence of a disapplication of this Article;
- (e) make provision (which may include provision conferring jurisdiction on a court or tribunal) about compensation.”.”.

(6) After paragraph 28 of Part II (Article 257: individual member: restrictions on dispositions of property) insert new paragraph 28A as follows—

“28A. Article 286A: Low value home: application for sale, possession or charge

Article 286A is modified so as to read as follows:—

“286A.—(1) This Article applies where—

- (a) property comprised in the individual member's estate consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—
 - (i) the individual member,
 - (ii) the individual member's spouse or civil partner, or
 - (iii) a former spouse or former civil partner of the individual member, and
- (b) the trustee applies for an order for the sale of the property, for an order for possession of the property or for an order under Article 286 in respect of the property.

(2) The High Court shall dismiss the application if the value of the interest is below such amount as may for the time being be specified for the purposes of this paragraph by Order under Article 362(1)(b).

(3) In determining the value of an interest for the purposes of this Article the High Court shall disregard any matter which it is required to disregard by the order which specifies the amount for the purposes of paragraph (2).”.”.

(7) In paragraph 29 (modification of Schedule 2) insert after modified paragraph 3 of modified Schedule 2 (powers of liquidator in a winding up) the following—

“3A. Power to bring legal proceedings under Article 177, 178, 202, 203 or 367.”.

Amendment to Schedule 5 to the Insolvent Partnerships Order (Northern Ireland) 1995

10. In Schedule 5 to the 1995 Order (modified provisions of the Order applying for purposes of Article 9) in modified Article 185(6) after “104(2) to (4)” insert “150A,”.

Amendment to Schedule 6 to the Insolvent Partnerships Order (Northern Ireland) 1995

11. In paragraph 3 of Schedule 6 to the 1995 Order (modified provisions of the Order applying for purposes of Article 10) in modified Article 185(6) after “132,” insert “150A,”.

Amendment to Schedule 7 to the Insolvent Partnerships Order (Northern Ireland) 1995

12.—(1) Schedule 7 to the 1995 Order (modified provisions for the purposes of Article 11) is amended as follows.

(2) In paragraph 1(2) omit “249,”.

(3) Omit paragraph 7 (Article 249: summary administration).

(4) After paragraph 6 (Article 246: grounds of joint bankruptcy petition) insert new paragraph 6A as follows—

“6A. Article 256A: Individual member’s home ceasing to form part of estate

Article 256A is modified so as to read as follows:—

“256A.—(1) This Article applies where property comprised in the estate of an individual member consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—

- (a) the individual member;
- (b) the individual member’s spouse or civil partner, or
- (c) a former spouse or former civil partner of the individual member.

(2) At the end of the period of 3 years beginning with the date of the bankruptcy the interest mentioned in paragraph (1) shall—

- (a) cease to be comprised in the individual member’s estate, and
- (b) vest in the individual member (without conveyance, assignment or transfer).

(3) Paragraph (2) shall not apply if during the period mentioned in that paragraph—

- (a) the trustee realises the interest mentioned in paragraph (1),
- (b) the trustee applies for an order for sale in respect of the dwelling-house,
- (c) the trustee applies for an order for possession of the dwelling-house;
- (d) the trustee applies for an order under Article 286 in Chapter IV in respect of that interest, or
- (e) the trustee and the individual member agree that the individual member shall incur a specified liability to his estate (with or without the addition of interest from the date of the agreement) in consideration of which the interest mentioned in paragraph (1) shall cease to form part of the estate.

(4) Where an application of a kind described in paragraph (3)(b) to (d) is made during the period mentioned in paragraph (2) and is dismissed, unless the High Court orders otherwise the interest to which the application relates shall on the dismissal of the application—

- (a) cease to be comprised in the individual member’s estate, and
- (b) vest in the individual member (without conveyance, assignment or transfer).

(5) If the individual member does not inform the trustee or the official receiver of his interest in a property before the end of the period of 3 months beginning with the date of the bankruptcy, the period of 3 years mentioned in paragraph (2)—

- (a) shall not begin with the date of the bankruptcy, but
- (b) shall begin with the date on which the trustee or official receiver becomes aware of the individual member’s interest.

(6) The High Court may substitute for the period of 3 years mentioned in paragraph (2) a longer period—

- (a) in prescribed circumstances, and
- (b) in such other circumstances as the Court thinks appropriate.

(7) The rules may make provision for this Article to have effect with the substitution of a shorter period for the period of 3 years mentioned in paragraph (2) in specified circumstances (which may be described by reference to action to be taken by a trustee in bankruptcy).

(8) The rules may also, in particular, make provision—

- (a) requiring or enabling the trustee of an individual member's estate to give notice that this Article applies or does not apply;
- (b) about the effect of a notice under sub-paragraph (a);
- (c) requiring the trustee of an individual member's estate to make an application to the Land Registry or the Registry of Deeds.

(9) Rules under paragraph (8)(b) may, in particular—

- (a) disapply this Article;
- (b) enable the High Court to disapply this Article;
- (c) make provision in consequence of a disapplication of this Article;
- (d) enable the Court to make provision in consequence of a disapplication of this Article;
- (e) make provision (which may include provision conferring jurisdiction on a court or tribunal) about compensation.”.”.

(5) After paragraph 20 (Article 285: obligation to surrender control to trustee) insert new paragraph 20A as follows—

“20A. Article 286A: Low value home: application for sale, possession or charge

Article 286A is modified so as to read as follows:—

“286A.—(1) This Article applies where—

- (a) property comprised in the individual member's estate consists of an interest in a dwelling-house which at the date of the bankruptcy was the sole or principal residence of—
 - (i) the individual member,
 - (ii) the individual member's spouse or civil partner, or
 - (iii) a former spouse or former civil partner of the individual member, and
- (b) the trustee applies for an order for the sale of the property, for an order for possession of the property or for an order under Article 286 in respect of the property.

(2) The High Court shall dismiss the application if the value of the interest is below such amount as may for the time being be specified for the purposes of this paragraph by Order under Article 362(1)(b).

(3) In determining the value of an interest for the purposes of this Article the High Court shall disregard any matter which it is required to disregard by the order which specifies the amount for the purposes of paragraph (2).”.”.

Amendment to Schedule 8 to the Insolvent Partnerships Order (Northern Ireland) 1995

13.—(1) Schedule 8 to the 1995 Order (Provisions of the Company Directors Disqualification (Northern Ireland) Order 2002 which apply with modifications for the purposes of Article 16) is amended as follows.

(2) In modified Article 9 (duty of High Court to disqualify unfit officers of insolvent partnerships)—

- (a) in paragraph (2)(a)(ii) for “an administration order is made in relation to the partnership” substitute “the partnership enters administration”;
- (b) in paragraph (2)(b)(ii) for “an administration order is made in relation to the company” substitute “the company enters administration”;
- (c) omit paragraph (2)(b)(iii).

(3) In modified Article 10(4)(b) (disqualification order or undertaking; and reporting provisions) for “in relation to which an administration order is in force” substitute “which is in administration”.

(4) In modified Schedule 1 (matters for determining unfitness of officers of partnerships) in paragraph 12(a) for “Article 34” substitute “paragraph 49 of Schedule B1”.

Amendment to Schedule 9 to the Insolvent Partnerships Order (Northern Ireland) 1995

14. Schedule 9 to the 1995 Order (forms) is amended as follows—

- (a) in the entry for Form 1 for “Petition for administration order” substitute “Administration application”;
- (b) after the entry for Form 1 insert the following entries—
 - “1A Notice of intention to appoint an administrator by the members of the partnership
 - 1B Notice of an appointment of an administrator by the members of the partnership (where a notice of intention to appoint has not been issued)”;
- (c) for Forms 1, 4 and 16 substitute the Forms so numbered in Schedule 2 and after Form 1 insert Forms 1A and 1B as set out in Schedule 2.

Amendment to Schedule 10 to the Insolvent Partnerships Order (Northern Ireland) 1995

15. Schedule 10 to the 1995 Order is amended as follows—

- (a) omit “The Insolvency Fees Order (Northern Ireland) 1991” and “The Insolvency (Deposits) Order (Northern Ireland) 1991”;
- (b) for “The Insolvency Practitioners Regulations (Northern Ireland) 1991” substitute “The Insolvency Practitioners Regulations (Northern Ireland) 2006(a)”;
- (c) at the end insert—
 - “The Insolvency Practitioners and Insolvency Account (Fees) Order (Northern Ireland) 2006(b);
 - The Insolvency (Fees) Order (Northern Ireland) 2006(c);
 - The Insolvency (Deposits) Order (Northern Ireland) 2006(d)”.

(a) S.R. 2006 No. 33
(b) S. R. 2006 No.53
(c) S.R. 2006 No. 54
(d) S.R. 2006 No. 55

Signed by the authority of the Lord Chancellor

Parliamentary Under Secretary of State,
Department for Constitutional Affairs

Dated xxxxx 2006

I concur, on behalf of the Lord Chief Justice of Northern Ireland

The Department of Enterprise, Trade and Investment hereby concurs with the foregoing Order.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on xxxxx
2006

Senior Officer of the Department of Enterprise, Trade and Investment

SCHEDULE 1

Article 7

SUBSTITUTED SCHEDULE 2 TO THE INSOLVENT PARTNERSHIPS ORDER (NORTHERN IRELAND) 1995

“SCHEDULE 2

Article 6

PROVISIONS OF THE ORDER WHICH APPLY WITH MODIFICATIONS FOR THE PURPOSES OF ARTICLE 6 TO ADMINISTRATION IN RELATION TO INSOLVENT PARTNERSHIPS

1. The following provisions of Schedule B1 and Schedule 1 to the Order are modified as follows.

2. Paragraph 1 is modified so as to read as follows—

“1.—(1) In this Schedule—

“administrator” has the meaning given by paragraph 2 and, where the context requires, includes a reference to a former administrator,

“correspondence” includes correspondence by telephonic or other electronic means,

“creditors’ meeting” has the meaning given by paragraph 51,

“enters administration” has the meaning given by paragraph 2,

“in administration” has the meaning given by paragraph 2,

“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement,

“market value” means the amount which would be realised on a sale of property in the open market by a willing vendor,

“the purpose of administration” means an objective specified in paragraph 4, and

“unable to pay its debts” has the meaning given by Articles 186, 187, and 188.

(2) A reference in this Schedule to a thing in writing includes a reference to a thing in electronic form.

(3) In this Schedule a reference to action includes a reference to inaction.”.

3. Paragraph 3 is modified so as to read as follows—

“3. A person may be appointed as administrator of a partnership—

(a) by administration order of the High Court under paragraph 11, or

(b) by the members of the insolvent partnership in their capacity as such under paragraph 23.”.

4. Paragraph 8 is modified so as to read as follows—

“8. A person may not be appointed as administrator of a partnership which is in administration (subject to the provisions of paragraphs 91, 92, 94, 96, 98, and 101 to 104 about replacement and additional administrators).”.

5. Paragraph 9 is modified so as to read as follows—

- “9.—(1) A person may not be appointed as administrator of a partnership after—
- (a) an order has been made in relation to it by virtue of Article 11 of the Insolvent Partnerships Order (Northern Ireland) 1995; or
 - (b) an order has been made for it to be wound up by the High Court as an unregistered company.
- (2) Sub-paragraphs (1)(a) and (1)(b) are subject to paragraph 39.”.

6. Paragraph 12 is modified so as to read as follows—

- “12. The High Court may make an administration order in relation to a partnership only if satisfied—
- (a) that the partnership is unable to pay its debts, and
 - (b) that the administration order is reasonably likely to achieve the purpose of administration.”.

7. Paragraph 13 is modified so as to read as follows—

- “13.—(1) An application to the High Court for an administration order in respect of a partnership (“an administration application”) shall be by application in Form 1 in Schedule 9 to the Insolvent Partnerships Order (Northern Ireland) 1995 and may be made only by—
- (a) the members of the insolvent partnership in their capacity as such;
 - (b) one or more creditors of the partnership; or
 - (c) a combination of persons listed in paragraphs (a) and (b).
- (2) As soon as is reasonably practicable after the making of an administration application the applicant shall notify such persons as may be prescribed.
- (3) An administration application may not be withdrawn without the permission of the Court.
- (4) In sub-paragraph (1) “creditor” includes a contingent creditor and a prospective creditor.
- (5) Sub-paragraph (1) is without prejudice to Article 20(4)(b).”.

8. Paragraph 14 is modified so as to read as follows—

- “14.—(1) On hearing an administration application the High Court may—
- (a) make the administration order sought;
 - (b) dismiss the application;
 - (c) adjourn the hearing conditionally or unconditionally;
 - (d) make an interim order;
 - (e) treat the application as a winding-up petition and make any order which the Court could make under Article 105;
 - (f) make any other order which the Court thinks appropriate.
- (2) An appointment of an administrator by administration order takes effect—
- (a) at a time appointed by the order, or
 - (b) where no time is appointed by the order, when the order is made.
- (3) An interim order under sub-paragraph (1)(d) may, in particular—

- (a) restrict the exercise of a power of the officers of the partnership;
- (b) make provision conferring a discretion on the Court or on a person qualified to act as an insolvency practitioner in relation to the partnership.”.

9. Omit paragraphs 15 to 22.

10. Paragraph 23 is modified so as to read as follows—

“23. The members of the insolvent partnership may appoint an administrator.”.

11. Paragraph 24 is modified so as to read as follows—

“24.—(1) This paragraph applies where an administrator of a partnership is appointed—

- (a) under paragraph 23, or
- (b) on an administration application made by the members of the partnership.

(2) An administrator of the partnership may not be appointed under paragraph 23 during the period of 12 months beginning with the date on which the appointment referred to in sub-paragraph (1) ceases to have effect.”.

12. Paragraph 26 is modified so as to read as follows—

“26. An administrator of a partnership may not be appointed under paragraph 23 if—

- (a) a petition for the winding up of the partnership has been presented and is not yet disposed of, or
- (b) an administration application has been made and is not yet disposed of.”.

13. Paragraph 27 is modified so as to read as follows—

“27.—(1) A person who proposes to make an appointment under paragraph 23 shall give such notice as may be prescribed to such persons as may be prescribed.

(2) A notice under this paragraph must—

- (a) identify the proposed administrator, and
- (b) be in Form 1A in Schedule 9 to the Insolvent Partnerships Order (Northern Ireland) 1995.”.

14. Paragraph 28 is modified so as to read as follows—

“28.—(1) A person who gives notice of intention to appoint under paragraph 27 shall file with the High Court as soon as is reasonably practicable a copy of—

- (a) the notice, and
- (b) any document accompanying it.

(2) The copy filed under sub-paragraph (1) must be accompanied by a statutory declaration made by or on behalf of the person who proposes to make the appointment—

- (a) that the partnership is unable to pay its debts,
- (b) that the partnership is not in liquidation, and
- (c) that, so far as the person making the statement is able to ascertain, the appointment is not prevented by paragraphs 24 to 26, and
- (d) to such additional effect, and giving such information, as may be prescribed.

(3) A statutory declaration under sub-paragraph (2) must—

- (a) be in the prescribed form, and
- (b) be made during the prescribed period.

- (4) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
- (a) which is false, and
 - (b) which he does not reasonably believe to be true.”.

15. Paragraph 29 is modified so as to read as follows—

“**29.**—(1) An appointment may not be made under paragraph 23 unless the person who makes the appointment has complied with any requirement of paragraphs 27 and 28.

(2) An appointment may not be made under paragraph 23 after the period of 10 business days beginning with the date on which the notice of intention to appoint is filed under paragraph 28(1).”.

16. Paragraph 30 is modified so as to read as follows—

“**30.**—(1) A person who appoints an administrator of a partnership under paragraph 23 shall file with the High Court—

- (a) a notice of appointment, and
- (b) such other documents as may be prescribed.

(2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—

- (a) that the person is entitled to make an appointment under paragraph 23,
- (b) that the appointment is in accordance with this Schedule, and
- (c) that, so far as the person making the statement is able to ascertain, the statements made, and information given in the statutory declaration filed with the notice of intention to appoint remain accurate.

(3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—

- (a) that he consents to the appointment,
- (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
- (c) giving such other information and opinions as may be prescribed.

(4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by members of the partnership (unless he has reason to doubt its accuracy).

(5) The notice of appointment must be in Form 1B in Schedule 9 to the Insolvent Partnerships Order (Northern Ireland) 1995 and any document accompanying it must be in the prescribed form.

(6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.

(7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—

- (a) which is false, and
- (b) which he does not reasonably believe to be true.”.

17. Paragraph 31 is modified so as to read as follows—

“**31.** In a case in which no person is entitled to notice of intention to appoint under paragraph 27 (and paragraph 29 therefore does not apply)—

- (a) the statutory declaration accompanying the notice of appointment must include the statements and information required under paragraph 28(2), and

(b) paragraph 30(2)(c) shall not apply.”.

18. Paragraph 34 is modified so as to read as follows—

“**34.** If before the requirements of paragraph 30 are satisfied the partnership enters administration by virtue of an administration order—

(a) the appointment under paragraph 23 shall not take effect, and

(b) paragraph 33 shall not apply.”.

19. Omit paragraphs 36 to 38.

20. Omit paragraph 40.

21. Paragraph 41 is modified so as to read as follows—

“**41.**—(1) A petition for the winding up of a partnership shall be dismissed on the making of an administration order in respect of the partnership.

(2) Sub-paragraph (1) does not apply to a petition presented under—

(a) Article 104A (public interest), or

(b) section 367 of the Financial Services and Markets Act 2000 (c.8) (petition by Financial Services Authority).

(3) Where an administrator becomes aware that a petition was presented under a provision referred to in sub-paragraph (2) before his appointment, he shall apply to the High Court for directions under paragraph 64.”.

22. Paragraph 43 is modified so as to read as follows—

“**43.**—(1) This paragraph applies to a partnership in administration.

(2) No order may be made for the winding up of the partnership.

(3) No order may be made by virtue of Article 11 of the Insolvent Partnerships Order (Northern Ireland) 1995 in respect of the partnership.

(4) No order may be made under section 35 of the Partnership Act 1890 in respect of the partnership.

(5) Sub-paragraph (2) does not apply to an order made on a petition presented under—

(a) Article 104A (public interest); or

(b) section 367 of the Financial Services and Markets Act 2000 (c.8) (petition by Financial Services Authority).

(6) If a petition presented under a provision referred to in sub-paragraph (5) comes to the attention of the administrator, he shall apply to the High Court for directions under paragraph 64.”.

23. Paragraph 44 is modified so as to read as follows—

“**44.**—(1) This paragraph applies to a partnership in administration.

(2) No step may be taken to enforce security over the partnership property except—

(a) with the consent of the administrator, or

(b) with the permission of the High Court.

(3) No step may be taken to repossess goods in the partnership’s possession under a hire-purchase agreement except—

(a) with the consent of the administrator, or

(b) with the permission of the High Court.

(4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises forming part of the partnership property or let to one or more officers of the partnership in their capacity as such except—

- (a) with the consent of the administrator, or
- (b) with the permission of the Court.

(5) No legal process (including legal proceedings and distress) may be instituted or continued against the partnership or partnership property except—

- (a) with the consent of the administrator, or
- (b) with the permission of the Court.

(6) Where the Court gives permission for a transaction under this paragraph it may impose a condition on or a requirement in connection with the transaction.

(7) In this paragraph “landlord” includes a person to whom rent is payable.”.

24. Paragraph 45 is modified so as to read as follows—

“**45.**—(1) This paragraph applies where an administration application in respect of a partnership has been made and—

- (a) the application has not yet been granted or dismissed, or
- (b) the application has been granted but the administration order has not yet taken effect.

(2) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator is filed with the Court under paragraph 28(1) until—

- (a) the appointment of the administrator takes effect, or
- (b) the period specified in paragraph 29(2) expires without an administrator having been appointed.

(3) The provisions of paragraph 43 and 44 shall apply (ignoring any reference to the consent of the administrator).

(4) This paragraph does not prevent or require the permission of the High Court for the presentation of a petition for the winding up of a partnership under a provision mentioned in paragraph 43(5).”.

25. Paragraph 47 is modified so as to read as follows—

“**47.**—(1) This paragraph applies where a person becomes the administrator of a partnership.

(2) As soon as is reasonably practicable the administrator shall—

- (a) send a notice of his appointment to the partnership,
- (b) publish a notice of his appointment in the prescribed manner.

(3) As soon as is reasonably practicable the administrator shall—

- (a) obtain a list of the creditors of the partnership, and
- (b) send a notice of his appointment to each creditor of whose claim and address he is aware.

(4) The administrator shall send a notice of his appointment to such persons as may be prescribed before the end of the prescribed period beginning with the date specified in sub-paragraph (5).

(5) The date for the purpose of sub-paragraph (4) is—

- (a) in the case of an administrator appointed by administration order, the date of the order, and
- (b) in the case of an administrator appointed under paragraph 23, the date on which he receives notice under paragraph 33.

(6) The High Court may direct that sub-paragraph 3(b) or (4)—

- (a) shall not apply, or
- (b) shall apply with the substitution of a different period.

(7) A notice under this paragraph must—

- (a) contain the prescribed information, and
- (b) be in the prescribed form.

(8) An administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.”.

26. Paragraph 48 is modified so as to read as follows—

“**48.**—(1) As soon as is reasonably practicable after appointment the administrator of a partnership shall by notice in the prescribed form require one or more relevant persons to provide the administrator with a statement of the affairs of the partnership.

(2) The statement must—

- (a) be verified by affidavit,
- (b) be in the prescribed form,
- (c) give particulars of the partnership property, debts and liabilities,
- (d) give the names and addresses of the creditors of the partnership,
- (e) specify the security held by each creditor,
- (f) give the date on which each security was granted, and
- (g) contain such other information as may be prescribed.

(3) In sub-paragraph (1) “relevant person” means—

- (a) a person who is or has been an officer of the partnership,
- (b) a person who took part in the formation of the partnership during the period of one year ending with the date on which the partnership enters administration,
- (c) a person employed by the partnership during that period, and
- (d) a person who is or has been during that period an officer or employee of a partnership which is or has been during that year an officer of the partnership.

(4) For the purpose of sub-paragraph (3) a reference to employment is a reference to employment through a contract of employment or a contract for services.”.

27. Paragraph 50 is modified so as to read as follows—

“**50.**—(1) The administrator of a partnership shall make a statement setting out proposals for achieving the purpose of administration.

(2) A statement under sub-paragraph (1) must, in particular—

- (a) deal with such matters as may be prescribed, and
- (b) where applicable, explain why the administrator thinks that the objective mentioned in paragraph 4(1)(a) or (b) cannot be achieved.

(3) Proposals under this paragraph may include a proposal for a voluntary arrangement under Part II of this Order (although this paragraph is without prejudice to Article 17(3)).

(4) The administrator shall send a copy of the statement of his proposals—

- (a) to the High Court,
- (b) to every creditor of the partnership of whose claim and address he is aware, and

- (c) to every member of the partnership of whose address he is aware.
- (5) The administrator shall comply with sub-paragraph (4)—
 - (a) as soon as is reasonably practicable after the partnership enters administration, and
 - (b) in any event, before the end of the period of 8 weeks beginning with the day on which the partnership enters administration.
- (6) The administrator shall be taken to comply with sub-paragraph (4)(c) if he publishes in the prescribed manner a notice undertaking to provide a copy of the statement of proposals free of charge to any member of the partnership who applies in writing to a specified address.
- (7) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).
- (8) A period specified in this paragraph may be varied in accordance with paragraph 108.”.

28. Paragraph 53 is modified so as to read as follows—

- “**53.**—(1) Paragraph 52(1) shall not apply where the statement of proposals states that the administrator thinks—
- (a) that the partnership has sufficient property to enable each creditor of the partnership to be paid in full,
 - (b) that the partnership has insufficient property to enable a distribution to be made to unsecured creditors, or
 - (c) that neither of the objectives specified in paragraph 4(1)(a) and (b) can be achieved.
- (2) But the administrator shall summon an initial creditor’s meeting if it is requested—
- (a) by creditors of the partnership whose debts amount to at least 10 per cent. of the total debts of the partnership,
 - (b) in the prescribed manner, and
 - (c) in the prescribed period.
- (3) A meeting requested under sub-paragraph (2) must be summoned for a date in the prescribed period.
- (4) The period prescribed under sub-paragraph (3) may be varied in accordance with paragraph 108.”.

29. Paragraph 56 is modified so as to read as follows—

- “**56.**—(1) This paragraph applies where an administrator reports to the High Court that—
- (a) an initial creditors’ meeting has failed to approve the administrator’s proposals presented to it, or
 - (b) a creditors’ meeting has failed to approve a revision of the administrator’s proposals presented to it.
- (2) The Court may—
- (a) provide that the appointment of an administrator shall cease to have effect from a specified time;
 - (b) adjourn the hearing conditionally or unconditionally;
 - (c) make an interim order;
 - (d) make any other order (including an order making consequential provision) that the Court thinks appropriate.”.

30. Paragraph 62 is modified so as to read as follows—

“**62.** The administrator of a partnership—

- (a) may prevent any person from taking part in the management of the partnership business, and
- (b) may appoint any person to be a manager of that business.”.

31. Paragraph 66 is modified so as to read as follows—

“**66.**—(1) The administrator of a partnership may make a distribution to a creditor of the partnership.

(2) Article 149(1) and 2(a) shall apply in relation to a distribution under this paragraph as it applies in relation to a winding up.

(3) A payment may not be made by way of distribution under this paragraph to a creditor of the partnership who is neither secured nor preferential unless the High Court gives permission.”.

32. Paragraph 70 is modified so as to read as follows:—

“**70.**—(1) Subject to sub-paragraph (2), in exercising his function under this Schedule the administrator of a partnership acts as the agent of the members of the partnership in their capacity as such.

(2) An officer of the partnership shall not, unless he otherwise consents, be personally liable for the debts and obligations of the partnership incurred during the period when the partnership is in administration.”.

33. Omit paragraph 71.

34.—(1) In the cross-heading to paragraph 72 omit the words: “non-floating charge”.

(2) Paragraph 72 is modified so as to read as follows—

“**72.**—(1) The High Court may by order enable the administrator of a partnership to dispose of property which is subject to a security as if it were not subject to the security.

(2) An order under sub-paragraph (1) may be made only—

- (a) on the application of the administrator; and
- (b) where the Court thinks that disposal of the property would be likely to promote the purpose of administration in respect of the partnership.

(3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums secured by the security—

- (a) the net proceeds of disposal of the property, and
- (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the Court as the net amount which would be realised on a sale of the property at market value.

(4) If any order under this paragraph relates to more than one security, application of money under sub-paragraph (3) shall be in the order of the priority of the securities.”.

35. Paragraph 74 is modified so as to read as follows—

“**74.**—(1) An administrator’s statement of proposals under paragraph 50 may not include any action which—

- (a) affects the right of a secured creditor of the partnership to enforce his security,
- (b) would result in a preferential debt of the partnership being paid otherwise than in priority to its non-preferential debts, or

- (c) would result in one preferential creditor of the partnership being paid a smaller proportion of his debt than another.
- (2) Sub-paragraph (1) does not apply to—
 - (a) action to which the relevant creditor consents, or
 - (b) a proposal for a voluntary arrangement under Part II of this Order (although this sub-paragraph is without prejudice to Article 17(3)).
- (3) The reference to a statement of proposals in sub-paragraph (1) includes a reference to a statement as revised or modified.”.

36. Paragraph 75 is modified so as to read as follows—

“**75.**—(1) A creditor or member of a partnership in administration may apply to the High Court claiming that—

- (a) the administrator is acting or has acted so as unfairly to harm the interests of the applicant (whether alone or in common with some or all other members or creditors), or
 - (b) the administrator proposes to act in a way which would unfairly harm the interests of the applicant (whether alone or in common with some or all other members or creditors).
- (2) A creditor or member of a partnership in administration may apply to the Court claiming that the administrator is not performing his functions as quickly or as effectively as is reasonably practicable.
- (3) The Court may—
- (a) grant relief;
 - (b) dismiss the application;
 - (c) adjourn the hearing conditionally or unconditionally;
 - (d) make an interim order;
 - (e) make any other order it thinks appropriate.
- (4) In particular, an order under this paragraph may—
- (a) regulate the administrator’s exercise of his functions;
 - (b) require the administrator to do or not do a specified thing;
 - (c) require a creditors’ meeting to be held for a specified purpose;
 - (d) provide for the appointment of an administrator to cease to have effect;
 - (e) make consequential provision.
- (5) An order may be made on a claim under sub-paragraph (1) whether or not the action complained of—
- (a) is within the administrator’s powers under this Schedule;
 - (b) was taken in reliance on an order under paragraph 72 or 73.
- (6) An order may not be made under this paragraph if it would impede or prevent the implementation of—
- (a) a voluntary arrangement approved under Part II, or
 - (b) proposals or a revision approved under paragraph 54 or 55 more than 28 days before the day on which the application for the order under this paragraph is made.”.

37. Paragraph 81 is modified so as to read as follows—

“**81.**—(1) This paragraph applies where an administrator of a partnership is appointed under paragraph 23.

(2) If the administrator thinks that the purpose of administration has been sufficiently achieved in relation to the partnership he may file a notice in the prescribed form with the High Court.

(3) The administrator's appointment shall cease to have effect when the requirements of sub-paragraph (2) are satisfied.

(4) Where the administrator files a notice he shall within the prescribed period send a copy to every creditor of the partnership of whose claim and address he is aware.

(5) The rules may provide that the administrator is taken to have complied with sub-paragraph (4) if before the end of the prescribed period he publishes in the prescribed manner a notice undertaking to provide a copy of the notice under sub-paragraph (2) to any creditor of the company who applies in writing to a specified address.

(6) An administrator who fails without reasonable excuse to comply with sub-paragraph (4) commits an offence.”.

38. Paragraph 83 is modified so as to read as follows—

“**83.**—(1) This paragraph applies where a winding-up order is made for the winding up of a partnership in administration on a petition presented under—

- (a) Article 104A (public interest),
- (b) section 367 of the Financial Services and Markets Act 2000 (c.8) (petition by Financial Services Authority).

(2) This paragraph also applies where a provisional liquidator of a partnership in administration is appointed following the presentation of a petition under either of the provisions listed in sub-paragraph (1).

(3) The High Court shall order—

- (a) that the appointment of the administrator shall cease to have effect, or
- (b) that the appointment of the administrator shall continue to have effect.

(4) If the Court makes an order under sub-paragraph (3)(b) it may also—

- (a) specify which of the powers under this Schedule are to be exercisable by the administrator, and
- (b) order that this Schedule shall have effect in relation to the administrator with specified modifications.”.

39. Omit paragraph 84.

40. Paragraph 85 is modified so as to read as follows—

“**85.**—(1) If the administrator of a partnership thinks that the partnership has no property which might permit a distribution to its creditors, he shall file a notice to that effect with the High Court.

(2) The Court may on the application of the administrator of a partnership disapply sub-paragraph (1) in respect of the partnership.

(3) On the filing of a notice in respect of a partnership under sub-paragraph (1) the appointment of an administrator of the partnership shall cease to have effect.

(4) If an administrator files a notice under sub-paragraph (1) he shall as soon as is reasonably practicable send a copy of the notice to each creditor of whose claim and address he is aware.

(5) At the end of the period of 3 months beginning with the date of filing of a notice in respect of a partnership under sub-paragraph (1) the partnership is deemed to be dissolved.

(6) On an application in respect of a partnership by the administrator or another interested person the Court may—

- (a) extend the period specified in sub-paragraph (5);
- (b) suspend that period; or
- (c) disapply sub-paragraph (5).

(7) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (4).”.

41. Paragraph 88 is modified to read as follows—

“**88.**—(1) An administrator may resign only in prescribed circumstances.

(2) Where an administrator may resign he may do so only—

- (a) in the case of an administrator appointed by administration order, by notice in writing or the High Court, or
- (b) in the case of an administrator appointed under paragraph 23, by notice in writing to the members of the insolvent partnership.”.

42. Paragraph 90 is modified so as to read as follows—

“**90.**—(1) The administrator of a partnership shall vacate office if he ceases to be qualified to act as an insolvency practitioner in relation to the partnership.

(2) Where an administrator vacates office by virtue of sub-paragraph (1) he shall give notice in writing—

- (a) in the case of an administrator appointed by administration order, to the High Court, or
- (b) in the case of an administrator appointed under paragraph 23, to the members of the insolvent partnership.

(3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.”.

43. Paragraph 91 is modified so as to read as follows—

“**91.** Paragraphs 92, 94 and 96 apply where an administrator—

- (a) dies,
- (b) resigns,
- (c) is removed from office under paragraph 89, or
- (d) vacates office under paragraph 90.”.

44. Paragraph 92 is modified so as to read as follows—

“**92.**—(1) Where the administrator was appointed by administration order, the High Court may replace the administrator on an application under this sub-paragraph made by—

- (a) a creditors’ committee of the partnership,
- (b) the members of the partnership,
- (c) one or more creditors of the partnership, or
- (d) where more than one person was appointed to act jointly or concurrently as the administrator, any of those persons who remains in office.

(2) But an application may be made in reliance on sub-paragraph (1)(b) and (c) only where—

- (a) there is no creditors’ committee of the partnership,
- (b) the Court is satisfied that the creditors’ committee or a remaining administrator is not taking reasonable steps to make a replacement, or

- (c) the Court is satisfied that for another reason it is right for the application to be made.”.

45. Omit paragraph 93.

46. Paragraph 94 is modified so as to read as follows—

“**94.** Where the administrator was appointed under paragraph 23 by the members of the partnership, they may replace the administrator.”.

47. Omit paragraph 95.

48. Paragraph 96 is modified so as to read as follows—

“**96.** The High Court may replace an administrator on the application of a person listed in paragraph 92(1) if the Court—

- (a) is satisfied that a person who is entitled to replace the administrator under paragraph 94 is not taking reasonable steps to make a replacement, or
- (b) that for another reason it is right for the Court to make the replacement.”.

49. Omit paragraph 97.

50. Paragraph 98 is modified so as to read as follows—

“**98.**—(1) This paragraph applies where an administrator of a partnership is appointed by the members of the partnership under paragraph 23.

(2) A creditor’s meeting may replace the administrator.

(3) A creditors’ meeting may act under sub-paragraph (2) only if the new administrator’s written consent to act is presented to the meeting before the replacement is made.”.

51. Paragraph 99 is modified so as to read as follows—

“**99.**—(1) Where a person ceases to be the administrator of a partnership (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect) he is discharged from liability in respect of any action of his as administrator.

(2) The discharge provided by sub-paragraph (1) takes effect—

- (a) in the case of an administrator who dies, on the filing with the High Court of notice of his death,
- (b) in the case of an administrator appointed under paragraph 23, at a time appointed by resolution of the creditors’ committee or, if there is no committee, by resolution of the creditors, or
- (c) in any case, at a time specified by the Court.

(3) For the purpose of the application of sub-paragraph (2)(b) in a case where the administrator has made a statement under paragraph 53(1)(b), a resolution shall be taken as passed if (and only if) passed with the approval of—

- (a) each secured creditor of the partnership,
- (b) if the administrator has made a distribution to preferential creditors or thinks that a distribution may be made to preferential creditors—
 - (i) each secured creditor of the partnership, and
 - (ii) preferential creditors whose debts amount to more than 50 per cent. of the preferential debts of the partnership, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

(4) Discharge—

- (a) applies to liability accrued before the discharge takes effect,
- (b) does not prevent the exercise of the High Court's powers under paragraph 76.”.

52. Paragraph 100 is modified so as to read as follows—

“**100.**—(1) This paragraph applies where a person ceases to be the administrator of a partnership (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect).

(2) In this paragraph—

“the former administrator” means the person referred to in sub-paragraph (1), and

“cessation” means the time when he ceases to be the partnership's administrator.

(3) The former administrator's remuneration and expenses shall be charged on and payable out of property of which he had custody or control immediately before cessation.

(4) A sum payable in respect of a debt or liability arising out of a contract entered into by the former administrator or a predecessor before cessation shall be—

- (a) charged on and payable out of property of which the former administrator had custody or control immediately before cessation, and
- (b) payable in priority to any charge arising under sub-paragraph (3).

(5) Sub-paragraph (4) shall apply to a liability arising under a contract of employment which was adopted by the former administrator or a predecessor before cessation; and for that purpose—

- (a) action taken within the period of 14 days after an administrator's appointment shall not be taken to amount or contribute to the adoption of a contract,
- (b) no account shall be taken of a liability which arises, or in so far as it arises, by reference to anything which is done or which occurs before the adoption of the contract of employment, and
- (c) no account shall be taken of a liability to make a payment other than wages or salary.

(6) In sub-paragraph (5)(c) “wages or salary” includes—

- (a) a sum payable in respect of a period of holiday (for which purpose the sum shall be treated as relating to the period by reference to which the entitlement to holiday accrued),
- (b) a sum payable in respect of a period of absence through illness or other good cause,
- (c) a sum payable in lieu of holiday,
- (d) in respect of a period, a sum which would be treated as earnings for that period for the purposes of an enactment about social security, and
- (e) a contribution to an occupational pension scheme.”.

53. Paragraph 102 is modified so as to read as follows—

“**102.**—(1) This paragraph applies where two or more persons are appointed to act jointly as the administrator of a partnership.

(2) A reference to the administrator of a partnership is a reference to those persons acting jointly.

(3) But a reference to the administrator of a partnership in paragraphs 88 to 92, 94, 96 and 98 to 100 is a reference to any or all of the persons appointed to act jointly.

(4) Where an offence of omission is committed by the administrator, each of the persons appointed to act jointly—

- (a) commits the offence, and
- (b) may be proceeded against and punished individually.

(5) The reference in paragraph 46(1)(a) to the name of the administrator is a reference to the name of each of the persons appointed to act jointly.

(6) Where persons are appointed to act jointly in respect of only some of the functions of the administrator of a partnership, this paragraph applies only in relation to those functions.”.

54. Paragraph 104 is modified so as to read as follows—

“**104.**—(1) Where a partnership is in administration, a person may be appointed to act as administrator jointly or concurrently with the person or persons acting as the administrator of the partnership.

(2) Where a partnership entered administration by administration order, an appointment under sub-paragraph (1) must be made by the High Court on the application of—

- (a) a person or group listed in paragraph 13(1)(a) to (c), or
- (b) the person or persons acting as the administrator of the partnership.

(3) Where a partnership entered administration by virtue of an appointment under paragraph 23, an appointment under sub-paragraph (1) must be made either by the High Court on the application of the person or persons acting as the administrator of the partnership or by the members of the partnership.

(4) An appointment under sub-paragraph (1) may be made only with the consent of the person or persons acting as the administrator of the partnership.”.

55. Omit paragraph 106.

56. Paragraph 107 is modified so as to read as follows—

“**107.**—(1) A person who is guilty of an offence under this Schedule is liable to a fine (in accordance with Article 373 and Schedule 7).

(2) A person who is guilty of an offence under any of the following paragraphs of this Schedule is liable to a daily default fine (in accordance with Article 373 and Schedule 7)—

- (a) paragraph 33,
- (b) paragraph 47,
- (c) paragraph 49,
- (d) paragraph 50,
- (e) paragraph 52,
- (f) paragraph 54,
- (g) paragraph 55,
- (h) paragraph 57,
- (i) paragraph 79,
- (j) paragraph 81,
- (k) paragraph 85, and
- (l) paragraph 90.”.

57. Schedule 1 is modified to read as follows:—

POWERS OF ADMINISTRATOR

1. Power to take possession of, collect and get in the partnership property and, for that purpose, to take such proceedings as may seem to him expedient.

2. Power to sell or otherwise dispose of the partnership property, including the goodwill and book debts of any business.

3. Power to make, on such terms and conditions as he may think proper, a sub-fee farm grant of land or any part thereof, or a sub-lease of land or any part thereof with a nominal reversion (and to sell the rent or reversion), where such sub-fee farm grant or sub-lease amounts in substance to a sale and he has satisfied himself that it is the most appropriate method of disposing of the land.

4. Power to raise or borrow money and grant security therefor over the partnership property.

5. Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.

6. Power to bring or defend any action or other legal proceedings in the name and on behalf of any member of the partnership in his capacity as such or of the partnership.

7. Power to refer to arbitration any question affecting the partnership.

8. Power to effect and maintain insurances in respect of the partnership business and property.

9. Power to do all acts and execute, in the name and on behalf of the partnership or of any member of the partnership in his capacity as such, any deed, receipt or other document.

10. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of any member of the partnership in his capacity as such or of the partnership.

11. Power to appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent and power to employ and dismiss employees.

12. Power to do all such things (including the carrying out of works) as may be necessary for the realisation of the partnership property.

13. Power to make any payment which is necessary or incidental to the performance of his functions.

14. Power to carry on the business of the partnership.

15. Power to establish subsidiary undertakings of the partnership.

16. Power to transfer to subsidiary undertakings of the partnership the whole or any part of the business of the partnership or of the partnership property.

17. Power to grant or accept a surrender of a lease or tenancy of any of the partnership property, and to take a lease or tenancy of any property required or convenient for the business of the partnership.

18. Power to make any arrangement or compromise on behalf of the partnership or of its members in their capacity as such.

19. Power to rank and claim in the bankruptcy, insolvency or liquidation of any person indebted to the partnership and to receive dividends, and to accede to trust deeds for the creditors of any such person.

20. Power to present or defend a petition for the winding up of the partnership under the Insolvent Partnerships Order (Northern Ireland) 1995.

21. Power to do all other things incidental to the exercise of the foregoing powers.”

SCHEDULE 2

Article 12

FORMS

Form 1

Schedule 2 paragraph 7
Paragraph 13 (1) of
Schedule B1

Administration Application

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

(a) Insert name of partnership
IN THE MATTER OF (a)
("the partnership")
AND IN THE MATTER OF THE INSOLVENT PARTNERSHIPS ORDER
(NORTHERN IRELAND) 1995

To the High Court of Justice in Northern Ireland

(b) Insert full name(s) and address(es) of applicant(s)
1. The application of (b) _____ being

*Delete as appropriate
*(i) the members of the partnership, in reliance on paragraph 13(1)(a) of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 ("the Schedule") as modified by the Insolvent Partnerships Order (Northern Ireland) 1995

(c) Name(s) of all creditors applying
*(ii) a creditor/a creditor presenting this application on behalf of himself and the following creditors of the partnership: (c) _____, in reliance on paragraph 13(1)(b) of the Schedule, as modified by the Insolvent Partnerships Order (Northern Ireland) 1995

*(iii) the liquidator of the partnership, in reliance on paragraph 39 of the Schedule as applied by the Insolvent Partnerships Order (Northern Ireland) 1995

*(iv) the supervisor of a voluntary arrangement, in reliance on Article 20(4)(b) of the Insolvency (Northern Ireland) Order 1989 as modified by the Insolvent Partnerships Order (Northern Ireland) 1995

(d) Insert address of principal place of business
2. The principal place of business of the partnership is at (d) _____

(e) Insert nature of partnership's business
3. The nature of the partnership's business is (e) _____

*Delete as applicable
4. The partnership *is/is not *an insurance undertaking/credit institution/an investment undertaking providing services involving the holding of funds or securities for third parties/or a collective investment undertaking under Article 1.2 of the EC Regulation.

*Delete as applicable
(f) Insert whether
main, secondary or
territorial proceedings

5. For the reasons stated in the affidavit in support of this application it is considered that the EC Regulation *will/will not apply. If it does apply, proceedings will be (f) _____ proceedings as defined in Article 3 of the EC Regulation

6. *The applicant(s) believe(s) that the partnership is unable to pay its debts for the reasons stated in the affidavit in support attached to this application

7. The applicant(s) propose(s) that during the period for which the order is in force, the affairs, business and property of the partnership be managed by

(g) Insert full name(s)
and address(es) of
proposed
administrator(s)

(g) _____

whose statement(s) in Form 2.02B of the Insolvency Rules (Northern Ireland) 1991 is/are attached to this application

8. An affidavit in support of this application is attached

*Delete as applicable
(h) Insert address for
service

9. The *applicant's/applicant's solicitor's address for service is (h) _____

10. The applicant(s) therefore request(s) as follows:—

(1) that the Court make an administration order in relation to (a) _____

(i) Insert full name(s)
of proposed
administrator(s)

(2) that (i) _____
be appointed to be the administrator(s) of the said partnership

(j) Insert details of any
ancillary orders sought

(3)(j) _____
or

(4) that such other order may be made as the Court thinks appropriate

*Delete as applicable

Signed _____
*Applicant/applicant's solicitor

Dated _____

Endorsement to be completed by the court

This application having been presented to the Court on _____

will be heard at the Royal Courts of Justice, Chichester Street, Belfast,
BT1 3JF _____ on

(Date) _____ at

(Time) _____ hours
(or as soon thereafter as the application can be heard)

The solicitor to the applicant is:—

Name _____

Address _____

Telephone No: _____

Reference _____

Fax Number (if any) _____

Form 1A

Schedule 2
paragraph 13
Paragraph 23 of
Schedule B1

Notice of Intention to Appoint an Administrator by the Members of the Partnership

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (BANKRUPTCY)

(a) Insert name of partnership IN THE MATTER OF (a) _____
("the partnership")
AND IN THE MATTER OF THE INSOLVENT PARTNERSHIPS ORDER
(NORTHERN IRELAND) 1995

The High Court of Justice in Northern Ireland

(b) Insert name and address of principal place of business of partnership 1. Notice is given that, in respect of (b) _____
_____ the members of the partnership ("the appointor") intend to appoint

(c) Give name(s) and address(es) of proposed administrator(s) (c) _____
_____ as administrator(s) of the partnership.

2. This notice is being given to the following person(s).

(d) Insert name and address of each person to whom notice is given (d) _____

3. The partnership has not, within the last twelve months:
(i) been in administration
(ii) been the subject of a moratorium under Schedule A1 to the Insolvency (Northern Ireland) Order 1989 which has ended on a date when no voluntary arrangement was in force
(iii) been the subject of a voluntary arrangement which was made during a moratorium for the partnership under Schedule A1 to the Insolvency (Northern Ireland) Order 1989 and which ended prematurely within the meaning of Article 20B of the Insolvency (Northern Ireland) Order 1989.

4. In relation to the partnership there is no:
(i) petition for winding up which has been presented but not yet disposed of, or
(ii) administration application which has not yet been disposed of.

*Delete as applicable 5. The partnership *is/is not *an insurance undertaking/a credit institution/an investment undertaking providing services involving the holding of funds or securities for third parties/or a collective investment undertaking under Article 1.2 of the EC Regulation.

(e) Insert whether main, secondary or territorial proceedings

6. For the following reasons it is considered that the EC Regulation *will/will not apply. If it does apply, these proceedings will be (e) _____ proceedings as defined in Article 3 of the EC Regulations _____

7. Attached to this notice is a copy of the record of the members' decision to appoint an administrator.

(f) Insert name and address of person making declaration

I (f) _____
(if making the declaration on behalf of appointor indicate capacity e.g. partner/solicitor)

hereby do solemnly and sincerely declare that:

- (i) the partnership is unable to pay its debts
- (ii) the partnership is not in liquidation, and
- (iii) the statements in paragraphs 3 and 4 are, so far as I am able to ascertain, true,

and that the information provided in this notice is to the best of my knowledge and belief true,

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835

Declared at _____

Signed _____

This _____ day of _____ 20

Note: This form now to be sent to all those required to be sent the form by Rule 2.021(2)

before me _____

A Commissioner for Oaths or Notary Public or Justice of the Peace or Solicitor or Duly Authorised Officer.

Endorsement to be completed by court

(g) Insert date and time

This notice was filed (g) _____

Schedule 2
paragraph 16
Paragraph 23 of
Schedule B1

**NOTICE OF APPOINTMENT OF AN ADMINISTRATOR BY THE
MEMBERS OF THE PARTNERSHIP**

(Where a notice of intention to appoint has not been issued)

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND CHANCERY
DIVISION (BANKRUPTCY)

(a) Insert name of partnership
IN THE MATTER OF (a)
("the partnership")
AND IN THE MATTER OF THE INSOLVENT PARTNERSHIPS ORDER
(NORTHERN IRELAND) 1995

The High Court of Justice in Northern Ireland

(b) Insert name and address of principal place of business of partnership
1. Notice is given that, in respect of (b) _____

_____ ("the Partnership")

the members of the partnership ("the appointor") hereby appoint

(c) Give name(s) and address(es) of administrator(s)
(c) _____

as administrator(s) of the partnership.

- *Delete as applicable
2. The written statement(s) in Form 2.02B *is/are attached.
 3. The appointor is entitled to make an appointment under paragraph 23 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989.
 4. This appointment is in accordance with Schedule B1 to the Insolvency (Northern Ireland) Order 1989.
 5. The partnership has not, within the last twelve months:—
 - (i) been in administration
 - (ii) been the subject of a moratorium under Schedule A1 to the Insolvency (Northern Ireland) Order 1989 which has ended on a date when no voluntary arrangement was in force
 - (iii) been the subject of a voluntary arrangement which was made during a moratorium for the partnership under Schedule A1 to the Insolvency (Northern Ireland) Order 1989 and which ended prematurely within the meaning of Article 20B of the Insolvency (Northern Ireland) Order 1989.

6. In relation to the partnership there is no:

- (i) petition for winding up which has been presented but not yet disposed of, or
- (ii) administration application which has not yet been disposed of.

*Delete as applicable 7. The partnership *is/is not *an insurance undertaking/a credit institution/an investment undertaking providing services involving the holding of funds or securities for third parties/or a collective investment undertaking under Article 1.2 of the EC Regulation

(d) Insert whether main, secondary or territorial proceedings 8. For the following reasons it is considered that the EC Regulation *will/will not apply. If it does apply, these proceedings will be (d) _____ proceedings as defined in Article 3 of the EC Regulation: _____

9. Attached to this notice is a copy of the record of the decision of the members of the partnership to appoint an administrator.

10. Where there are joint administrators, a statement for the purposes of paragraph 101(2) of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 is attached.

(e) Insert name and address of person making declaration I (e) _____ (If making the declaration on behalf of appointor indicate capacity e.g. partner/solicitor)

hereby do solemnly and sincerely declare that:

- (i) the partnership is unable to pay its debts
- (ii) the partnership is not in liquidation, and
- (iii) the statements in paragraphs 5 and 6 are, so far as I am able to ascertain, true,

and the information provided in this notice is to the best of my knowledge and belief true,

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835

Declared at _____

Signed _____

This _____ day of _____ 20

Before me _____

A Commissioner for Oaths or Notary Public or Justice of the Peace or Solicitor or Duly Authorised Officer

Endorsement to be completed by the court

(f) Insert date and
time

This notice was filed (f) _____

Schedule 4 paragraph 4 and paragraph 7

Art. 186(1)(a)

Art. 186(1)(b)

Art. 103(1)(a)

Art. 242(1)(a)

Written/Statutory Demand by Creditor

(a) Insert name of partnership

IN THE MATTER OF

(a) _____

AND IN THE MATTER OF THE INSOLVENT PARTNERSHIPS ORDER (NORTHERN IRELAND) 1995

WARNING TO DEBTOR – READ THE FOLLOWING NOTES CAREFULLY

- * This is an important document. Please read the demand and the notes entitled “How to comply with a demand” and “How to have a demand set aside (applicable to individual members only)” on page 5 below.
- * If the partnership has received this, the partnership must act upon it **within 21 days** or a winding-up order could be made against the partnership.
- * If a corporate member of the partnership has received this, that member must act upon it **within 21 days** or a winding-up order could be made against the partnership.
- * If, having received this as an individual member of the partnership, you wish to have this demand set aside, you must make application to do so **within 18 days** from its service on you. If you do not apply to set aside **within 18 days** or otherwise deal with this demand as set out in the notes **within 21 days** after its service on you, you could be made bankrupt and your property and goods taken away from you.

If you are in any doubt about your position you should seek advice **immediately** from a solicitor, your nearest Citizens Advice Bureau, or an Insolvency Practitioner.

To: _____

Address: _____

This DEMAND is served on you by the creditor:

Name: _____

Address: _____

DEMAND

Notes for Creditor

- * If the creditor is entitled to the debt by way of assignment, details of the original creditor and any intermediary assignees should be given in Part B on page 4.
- * If the amount of the debt includes interest not previously notified to the partnership as included in its liability, details should be given, including the grounds upon which interest is charged. The amount of interest must be shown separately.
- * Any other charge accruing due from time to time may be claimed. The amount or rate of the charge must be identified and the grounds on which it is claimed must be stated.
- * In either case the amount claimed must be limited to that which has accrued due at the date of the demand.
- * If the creditor holds any security, the amount of the debt should be the sum the creditor is prepared to regard as unsecured for the purposes of this demand. Brief details of the total debt should be included and the nature of the security and the value put upon it by the creditor, as at the date of the demand, must be specified.
- * If signatory of the demand is a solicitor or other agent of the creditor, the name of his/her firm should be given.

The creditor claims that the partnership owes the sum of £ _____, full particulars of which are set out on page 3;

The creditor demands that the partnership or a member or former member of the partnership named in Part C of this notice do pay the above debt or secure or compound for it to the creditor's satisfaction

Signature of individual _____

Name _____
(BLOCK LETTERS)

Date _____

*Position with or relationship to creditor:

*I am authorised to make this demand on the creditor's behalf.

Address _____

Tel. No. _____ Fax. No. _____

Reference _____

N.B. The person making this demand must complete the whole of this page, page 3, page 4 and page 5.

* Delete if signed by the creditor himself.

Particulars of Debt

These particulars must include

- (a) when the debt was incurred,
- (b) the consideration for the debt (or if there is no consideration the way in which it arose), and
- (c) the amount due as at the date of this demand

Notes for Creditor

Please make sure that you have read the notes on page 2 before completing this page.

Note:

If space is insufficient continue on reverse of page and clearly indicate on this page that you are doing so.

PART A

The individual or individuals to whom any communication regarding this demand may be addressed is/are:—

Name _____
(BLOCK LETTERS)
Address _____

Tel. No. _____
Fax. No. _____
Reference _____

PART B

For completion if the creditor is entitled to the debt by way of assignment

	Name	Date(s) of Assignment
Original creditor		
Assignees		

PART C

It is intended that a demand in respect of the debt shown on page 2 will also be served on the following:—

HOW TO COMPLY WITH A DEMAND

If the partnership or a corporate member wishes to avoid a winding-up petition being presented against it, it must pay the debt shown on page 2, particulars of which are set out on page 3 of this notice, within the period of **21 days after** its service. Alternatively, the partnership can attempt to come to a settlement with the creditor. To do this the partnership should:

- * inform the individual (or one of the individuals) named in Part A immediately that it is willing and able to offer security for the debt to the creditor’s satisfaction; or
- * inform the individual (or one of the individuals) named in Part A immediately that it is willing and able to compound for the debt to the creditor’s satisfaction.

If the partnership disputes the demand in whole or in part it should:

- * contact the individual (or one of the individuals) named in Part A immediately.

REMEMBER!	The partnership has only 21 days after the date of the service on it of this document before the creditor may present a winding-up petition against the partnership and winding-up or bankruptcy petitions against those members listed in Part C of this notice.
------------------	--

HOW TO HAVE A DEMAND SET ASIDE (applicable to individual members only)

If you are an individual member of the partnership and you consider that you have grounds to have this demand set aside or if you do not quickly receive a satisfactory written reply from the individual named at Part A whom you have contacted you should **apply within 18 days** from the date of service of this demand on you to the High Court of Justice in Northern Ireland, Chichester Street, Belfast, BT1 3JF (Bankruptcy and Companies Office) to have the demand set aside.

Any application to set aside the demand (Form 6.04 in Schedule 2 to the Insolvency Rules (Northern Ireland) 1991) should be made within 18 days from the date of service upon you and be supported by an affidavit (Form 6.05 in Schedule 2 to those Rules) stating the grounds on which the demand should be set aside. The forms may be obtained from the Court when you attend to make the application.

REMEMBER!	<p>From the date of service on you of this document</p> <ul style="list-style-type: none"> * you have only 18 days to apply to the Court to have the demand set aside, and * you have only 21 days before the creditor may present a bankruptcy petition against you.
------------------	--

Bankruptcy Orders on Joint Bankruptcy Petition Presented by Individual Members

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND CHANCERY
DIVISION (BANKRUPTCY)

(a) Insert names of individual members

IN THE MATTER OF (a)
("the partnership")
AND IN THE MATTER OF THE INSOLVENT PARTNERSHIPS ORDER
(NORTHERN IRELAND) 1995

(b) Insert date

Upon the petition of the above-named individual members of a partnership ("the partnership") which was presented on (b) _____
And upon hearing _____

(c) Insert full description of individual member as set out in the petition

And upon reading the petition and statements of affairs
It is ordered that (c) _____

_____ and (c) _____

_____ [and (c) _____

_____]
be adjudged bankrupt

(d) Delete as appropriate

And the Court being satisfied that the EC Regulation (d) does/does not apply and it is ordered that the proceedings in relation to (e) _____

(e) Insert name of debtor(s)

(f) Insert whether main, secondary or territorial proceedings

Are (f) _____ proceedings as defined in Article 3 of the EC Regulation

And it is also ordered that the trustee of the individual members' estates be trustee of the partnership estate and that he wind up the affairs of the partnership and administer the partnership property.

Date _____

Time _____ hours

Important Notice to Bankrupts

The Official Receiver is by virtue of this order trustee of the individual members' estates and trustee of the partnership. You are requested to attend upon the Official Receiver at (g)

(g) Insert address of
Official Receiver's
office

immediately after you have received this order.

The Official Receiver's offices are open Monday to Friday (except on holidays) from 10.00 to 16.00 hours.

EXPLANATORY NOTE

(This note is not part of the Order)

This order amends the Insolvent Partnerships Order (Northern Ireland) 1995 (S.R. 1995 No. 225) (“the 1995 Order”). The following are the main changes made to the 1995 Order.

1. Article 4 substitutes Article 6 of the 1995 Order to take account of the amendment to Part III of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (“the 1989 Order”) by Article 3 of the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)) (“the 2005 Order”). Article 3 of the 2005 Order substituted Part III of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)). The substituted Part III consists only of Article 21 which gives effect to Schedule B1 to the Order, which was set out in Schedule 1 to the 2005 Order. Schedule B1 makes provision for companies to go into administration by court order on an administration application or upon the appointment of an administrator by the company, its directors or the holder of a qualifying floating charge.

2. Article 7 of this Order gives effect to Schedule 1 to this Order which substitutes Schedule 2 of the 1995 Order (modified provisions of the Order applying for purposes of Article 6). The substituted Schedule 2 contains modifications to Schedule B1 to the 1989 Order.

3. Article 5 amends Article 10 of the 1995 Order to remove a reference to summary administration consequent upon the abolition of that procedure by the 2005 Order.

4. Article 6 amends Schedule 1 to the 1995 Order consequent upon the changes to administration in the 2005 Order. Article 6(4) amends the provisions of modified Schedule A1 to take account of changes to the definition of small to medium enterprises in the Companies (1986 Order) (Accounts of Small and Medium-Sized Enterprises and Audit Exemption) (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No. 190).

5. Article 8 amends Schedule 3 to the 1995 Order consequent upon amendments made in the 2005 Order.

6. Article 9 amends Schedule 4 to the 1995 Order to provide for the modified application of Articles 256A and 286A of the 1989 Order which were inserted by the 2005 Order regarding treatment of the matrimonial home in bankruptcy.

7. Articles 10 and 11 amend the application of Article 185 of the Insolvency (Northern Ireland) Order 1989 to ensure that the requirement to set aside a “prescribed part” (Article 150A of the Insolvency (Northern Ireland) Order 1989) does not apply to the winding up of an insolvent partnership.

8. Article 12 amends Schedule 7 to the 1995 Order to remove references to summary administration consequent upon the abolition of that procedure by the 2005 Order, and to make provision for the application of Articles 256A and 286A of the 1989 Order as inserted by the 2005 Order regarding treatment of the matrimonial home in bankruptcy.

9. Article 13 amends Schedule 8 to the 1995 Order (modification of Company Directors Disqualification (Northern Ireland) Order 2002) consequent upon amendments made by the 2005 Order.

10. Article 14 and Schedule 2 provide for modified Forms for the administration of Insolvent Partnerships.

11. Article 15 amends Schedule 10 to the 1995 Order to reflect the revocation and legislative replacement of certain applicable subordinate legislation.

No regulatory impact assessment has been prepared for this Order as it will not impose any significant costs on business.