STATUTORY RULES OF NORTHERN IRELAND

2011 No. 151

INSOLVENCY

INDIVIDUALS

The Insolvency (Amendment) Rules (Northern Ireland) 2011

Made - - - -	*22nd March 2011*
Coming into operation	*30th June 2011*

The Department of Justice makes the following Rules in exercise of the powers conferred by Article 359 of the Insolvency (Northern Ireland) Order 1989(**1**), with the concurrence of the Department of Enterprise, Trade and Investment(**2**), and in relation to those rules that affect court procedure, with the concurrence of the Lord Chief Justice under Article 359(1A)(**3**) of that Order.

In accordance with Article 360 of that Order the Department of Justice has consulted the Committee appointed to review Rules.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Insolvency (Amendment) Rules (Northern Ireland) 2011 and come into operation on 30th June 2011.

(2) In these Rules—

"the Department" means the Department of Enterprise, Trade and Investment;

"the principal Rules" means the Insolvency Rules (Northern Ireland) 1991(**4**), and any reference to a numbered Part, Rule, Schedule or form is a reference to the Part, Rule, Schedule or form so numbered in the principal Rules unless the context otherwise requires; and

(**1**) S.I. 1989/2405 (N.I. 19), Article 359 of which was amended by the Insolvency (Northern Ireland) Order 1989 (Amendment) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 223), section 15 of and paragraph 81 of Schedule 5 to the Constitutional Reform Act 2005 (c.4), and by Article 15(5) of and paragraph 142 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976).

(**2**) Formerly the Department of Economic Development, see the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)), Article 3(5).

(**3**) Article 359(1A) was inserted by the Constitutional Reform Act 2005 (c. 4), Schedule 5, Part 1, paragraphs 80 and 81.

(**4**) The Insolvency Rules (Northern Ireland) 1991 (S.R. 1991 No. 364), as amended by the Insolvency (Amendment) Rules (Northern Ireland) 1994 (S.R. 1994 No. 26), the Insolvency (Amendment) Rules (Northern Ireland) 1995 (S.R. 1995 No. 291), the Insolvency (Amendment) Rules (Northern Ireland) 2000 (S.R. 2000 No. 247), the Insolvency (Amendment) Rules (Northern Ireland) 2002 (S.R. 2002 No. 261), the Insolvency (Amendment) Rules (Northern Ireland) 2003 (S.R. 2003 No. 549), the Insolvency (Amendment) Rules (Northern Ireland) 2006 (S.R. 2006 No. 47), the Insolvency (Amendment) Rules (Northern Ireland) 2008 (S.R. 2008 No. 118), the Insolvency (Amendment) Rules (Northern Ireland) 2009 (S.R. 2009 No. 404) and the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2004 (S.I. 2004/355).

"the Order" means the Insolvency (Northern Ireland) Order 1989 and any reference to a numbered Article is a reference to an Article of that Order.

Amendments to the principal Rules

2. The principal Rules are amended as set out in Rules 3 to 30 of these Rules.

Amendment to Rule 0.2

3. In Rule 0.2 (interpretation) in paragraph (b) of the definition of "the insolvent estate" for "an individual insolvency", substitute "a bankruptcy or a petition for bankruptcy".

Amendment to Rule 0.3

4. In Rule 0.3—

(a) in paragraph (1), after "personal", insert "or other";

(b) in paragraph (3), at the end insert "except applications for debt relief orders."; and

(c) in paragraph (4), after "application" where it first occurs, insert "made to the court".

Amendment to Rule 2.056

5. In Rule 2.056—

(a) in paragraph (2), omit "or any authorisation under section 323 of the Companies Act";

(b) for paragraph (4), substitute—

"(4) No member may be represented by—

(a) another member of the committee;

(b) a person who is at the same time representing another committee member;

(c) a body corporate;

(d) an undischarged bankrupt;

(e) a person to whom a moratorium period under a debt relief order applies;

(f) a disqualified director; or

(g) a person who is subject to a bankruptcy restrictions order or a debt relief restrictions order.".

(c) omit paragraph (5).

Amendment to Rule 3.21

6. In Rule 3.21—

(a) in paragraph (2), omit "or any authorisation under section 323 of the Companies Act";

(b) for paragraph (4), substitute—

"(4) No member may be represented by—

(a) another member of the committee;

(b) a person who is at the same time representing another committee member;

(c) a body corporate;

(d) an undischarged bankrupt;

(e) a person to whom a moratorium period under a debt relief order applies;

(f) a disqualified director; or

(g) a person who is subject to a bankruptcy restrictions order or a debt relief restrictions order".

(c) omit paragraph (5).

Amendment to Rule 4.167

7. In Rule 4.167—

(a) in paragraph (2), omit "or any authorisation under section 323 of the Companies Act";

(b) for paragraph (4), substitute—

"(4) No member may be represented by—

(a) another member of the committee;

(b) a person who is at the same time representing another committee member;

(c) a body corporate;

(d) an undischarged bankrupt;

(e) a person to whom a moratorium period under a debt relief order applies;

(f) a disqualified director; or

(g) a person who is subject to a bankruptcy restrictions order or a debt relief restrictions order".

(c) omit paragraph (5).

Insertion of new Part 5A – debt relief orders

8. After Part 5 (individual voluntary arrangements), insert Part 5A as set out in Schedule 1 to these Rules.

Amendment to Rule 6.153

9. In Rule 6.153—

(a) for paragraph (4), substitute—

"(4) No member may be represented by—

(a) another member of the committee;

(b) a person who is at the same time representing another committee member;

(c) a body corporate;

(d) an undischarged bankrupt;

(e) a person to whom a moratorium period under a debt relief order applies;

(f) a disqualified director; or

(g) a person who is subject to a bankruptcy restrictions order or a debt relief restrictions order".

(b) omit paragraph (5).

Insertion of new Chapters 30, 31 and 32 of Part 6 – debt relief restrictions orders and undertakings

10. At the end of Part 6 insert—

"CHAPTER 30

DEBT RELIEF RESTRICTIONS ORDER

Interpretation

6.245. In this Chapter and in Chapter 31—

"Department" includes the official receiver acting in accordance with paragraph 1(2)(b) of Schedule 2ZB to the Order.

Application for debt relief restrictions order

6.246.—(1) Where the Department applies to the court for a debt relief restrictions order to be made in relation to a person in respect of whom a debt relief order has been made under paragraph 1 of Schedule 2ZB to the Order, the application must be supported by a report by the Department.

(2) The report must include—

(a) a statement of the conduct by reference to which it is alleged that it is appropriate for a debt relief restrictions order to be made; and

(b) the evidence on which the Department relies in support of the application.

(3) Any evidence in support of an application for a debt relief restrictions order provided by persons other than the Department must be by way of an affidavit.

(4) The hearing date must be no earlier than 8 weeks from the date when the court fixes the venue for the hearing.

Service on the respondent

6.247.—(1) The Department must not more than 14 days after the date on which the application is made at court serve notice of the application and the venue fixed by the court on the debtor.

(2) The notice served on the respondent must be accompanied by a copy of the application, together with copies of the report by the Department, any other evidence filed with the court in support of the application, and an acknowledgement of service.

(3) The respondent must not more than 14 days after the date on which the application is served on him file in court an acknowledgement of service of the application indicating whether or not he contests the application.

(4) Where the respondent has failed to file an acknowledgement of service and the time period for doing so has expired, the respondent may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

The debtor's evidence

6.248.—(1) If the debtor wishes to oppose the application, he must within 28 days from the date of service on him of the application and evidence of the Department, file in court any evidence which he wishes the court to take into consideration.

(2) If the debtor files evidence under paragraph (1) of this Rule, he must within 3 business days of filing it at the court, serve a copy of such evidence upon the Department.

(3) The Department must, within 14 days from receiving the copy of the debtor's evidence, file in court any further evidence in reply it wishes the court to take into

consideration and must as soon as reasonably practicable serve a copy of that evidence upon the debtor.

Making a debt relief restrictions order

6.249.—(1) The court may make a debt relief restrictions order against the debtor, whether or not the latter appears and whether or not he has filed evidence in accordance with Rule 6.248.

(2) Where the court makes a debt relief restrictions order, it must send two sealed copies to the Department.

(3) As soon as reasonably practicable after receipt of the sealed copies of the order, the Department must send a sealed copy of the order to the debtor.

CHAPTER 31

INTERIM DEBT RELIEF RESTRICTIONS ORDER

Application for interim debt relief restrictions order

6.250.—(1) Where the Department applies for an interim debt relief restrictions order under paragraph 5 of Schedule 2ZB to the Order, the court must fix a venue for the hearing.

(2) Notice of an application for an interim debt relief restrictions order must be given to the debtor at least 2 business days before the hearing date unless the court directs otherwise.

The case against the debtor

6.251.—(1) The Department must file a report in court as evidence in support of any application for an interim debt relief restrictions order.

(2) The report must include evidence of the debtor's conduct which is alleged to constitute the grounds for the making of an interim debt relief restrictions order and evidence of matters which relate to the public interest in making the order.

(3) Any evidence provided in support of an application for an interim debt relief restrictions order by persons other than the Department must be by way of an affidavit.

Making an interim debt relief restrictions order

6.252.—(1) The debtor may file in court any evidence which he wishes the court to take into consideration and may appear at the hearing for an interim debt relief restrictions order.

(2) The court may make an interim debt relief restrictions order against the debtor, whether or not the latter appears, and whether or not he has filed evidence in accordance with paragraph (1) of this Rule.

(3) Where the court makes an interim debt relief restrictions order, it must, as soon as reasonably practicable, send two sealed copies of the order to the Department.

(4) As soon as reasonably practicable after receipt of the sealed copies of the order, the Department must send a sealed copy of the order to the debtor.

Application to set aside an interim debt relief restrictions order

6.253.—(1) A person subject to an interim debt relief restrictions order may apply to the court to set the order aside.

(2) An application to set aside an interim debt relief restrictions order must be supported by an affidavit stating the grounds on which the application is made.