STATUTORY RULES OF NORTHERN IRELAND

2009 No. 404

INSOLVENCY

The Insolvency (Amendment) Rules (Northern Ireland) 2009

Made - - - -	*4th December 2009*
To be laid before Parliament	
Coming into operation	*11th January 2010*

The Lord Chancellor 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 Lord Chancellor 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) 2009 and come into operation on 11th January 2010.

(2) In these Rules—

"the current principal Rules" means the Insolvency Rules (Northern Ireland) 1991(**4**), inclusive of the amendments made by the Insolvency (Amendment) Rules (Northern Ireland) 2006(**5**); and

"the former principal Rules" means the Insolvency Rules (Northern Ireland) 1991 where, by virtue of Rule 5 of the Insolvency (Amendment) Rules (Northern Ireland) 2006, they apply without the amendments made by those Rules.

(**1**) S.I. 1989/2405 (N.I. 19)

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

(**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) and the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2004 (S.I. 2004/355).

(**5**) S.R. 2006 No. 47

(3) References to numbered Rules are references to those Rules so numbered in the current principal Rules or in the former principal Rules as the case may be unless the context otherwise requires.

Transitional provisions

2.—(1) The amendments to the current and former principal Rules made by these Rules apply as follows.

(2) They apply where, in a company voluntary arrangement, a moratorium comes into force in relation to a company on or after 11th January 2010.

(3) They apply where a company enters administration on or after 11th January 2010, except where—

(a) it enters administration by virtue of an administration order under paragraph 11 of Schedule B1 to the 1989 Order on an application made before 11th January 2010;

(b) the administration is immediately preceded by a voluntary liquidation in respect of which the resolution to wind up was passed before 11th January 2010, or

(c) the administration is immediately preceded by a liquidation on the making of a winding-up order on a petition which was presented before 11th January 2010.

(4) They apply where, in a receivership, a receiver or manager is appointed in respect of a company on or after 11th January 2010.

(5) They apply where a company goes into liquidation upon the passing on or after 11th January 2010 of a resolution to wind up.

(6) They apply where a company goes into voluntary liquidation under paragraph 84 of Schedule B1 to the 1989 Order, except where the preceding administration—

(a) commenced before 11th January 2010, or

(b) is an administration which commenced by virtue of an administration order under paragraph 11 of Schedule B1 to the 1989 Order on an application which was made before 11th January 2010.

(7) They apply where a company goes into liquidation on the making of a winding-up order on a petition presented on or after 11th January 2010, except where the liquidation is immediately preceded by—

(a) an administration under paragraph 11 of Schedule B1 to the 1989 Order where the administration order was made on an application before 11th January 2010;

(b) an administration in respect of which the appointment of an administrator under paragraph 15 or 23 of Schedule B1 to the 1989 Order took effect before 11th January 2010, or

(c) a voluntary liquidation in respect of which the resolution to wind up was passed before 11th January 2010.

(8) In this Rule, "the 1989 Order" means the Insolvency (Northern Ireland) Order 1989.

Amendments to the current principal Rules

3. Subject to Rule 2, the current principal Rules shall be amended as set out in Rules 4 to 17.

Amendment of Rule 0.2

4.—(1) Rule 0.2 (interpretation) is amended as follows.

(2) After the definition of "Centre of main interests", insert ""the Companies Act" means "the Companies Act 2006"".

(3) For the definition of a "Part XXIII company", substitute—

""Part 34 company" has the same meaning as in the Companies Act 2006(**6**).".

Amendment of Rule 1.22A

5.—(1) Rule 1.22A (notice of order made under Article 17A(6)) is amended as follows.

(2) In paragraph (5), for "an office copy", substitute "a copy".

Amendment of Rule 1.41

6.—(1) Rule 1.41 (notice of extension of moratorium) is amended as follows.

(2) In paragraph (2), for "an office copy", substitute "a copy".

Amendment of Rule 2.050

7.—(1) Rule 2.050 (venue and conduct of company meeting) is amended as follows.

(2) In paragraph (5)—

(a) omit "of association"; and

(b) for "Order", substitute "Act".

Amendments to Rules 2.052, 2.056, 3.17, 3.21, 4.161, 4.167, 8.7 and 12.05

8.—(1) Rules 2.052(2) (formalities of establishment), 2.05(2) (committee-members' representatives), 3.17(2) (formalities of establishment), 3.21(2) (committee-members' representatives), 4.161(3) (formalities of establishment), 4.167(2) (committee-members' representatives), 8.7(1) (company representation) and 12.05(3) (quorum at meeting of creditors or contributories) are amended as follows.

(2) For "Article 383 of the Companies Order", where it occurs, substitute "section 323 of the Companies Act".

Amendment of Rule 3.36

9.—(1) Rule 3.36 (vacation of office) is amended as follows.

(2) In paragraph (2), for "Article 413(2) of the Companies Order (notice for the purposes of the register of charges)", substitute "section 871(2) of the Companies Act (registration of enforcement of security)".

Amendment of Rule 3.39

10.—(1) Rule 3.39 (preservation of certificate with company's records) is amended as follows.

(2) In paragraph (1), for "Article 230 of the Companies Order", substitute "sections 388 and 389 of the Companies Act".

Amendment of Rule 4.002

11.—(1) Rule 4.002 (winding up by the court: the various forms of petition) is amended as follows.

(2) In paragraph (1), in the second indent referring to paragraph (b) of Article 102, for "Article 127 of the Companies Order", substitute "section 761 of the Companies Act".

(**6**) 2006 (c. 46)

Amendment of Rule 4.008

12.—(1) Rule 4.008 (service of petition) is amended as follows.

(2) In paragraph (2)—

(a) in subparagraph (a), for "Article 21 of the Companies Order", substitute "section 9 of the Companies Act"; and

(b) in subparagraph (b), for "Article 295 of that Order", substitute "section 87 of the Companies Act".

(3) In paragraph (5)—

(a) for "Part XXIII", substitute "overseas"; and

(b) for "Article 645 of the Companies Order", substitute "section 1139(2) of the Companies Act".

Amendment of Rule 4.011

13.—(1) Rule 4.011 (notice and advertisement of petition) is amended as follows.

(2) In paragraph (5)(a)(ii), for "a Part XXIII", substitute "an overseas".

Amendment of Rule 4.240

14.—(1) Rule 4.240 (Prohibited names – third excepted case) is amended as follows.

(2) In paragraph (b), for "Article 260(5) of the Companies Order", substitute "section 1169(1), (2) and (3)(a) of the Companies Act".

Amendment of Rule 6.200

15.—(1) Rule 6.200 (application for leave) is amended as follows.

(2) In paragraph (4), for "Article 24 of the Companies Order", substitute "section 15 of the Companies Act".

Amendment of Rule 7.55

16.—(1) Rule 7.55 (office copies of documents) is amended as follows.

(2) In the heading to that Rule, for "Office copies", substitute "Copies".

(3) In paragraphs (1) and (3), for "an office copy", substitute "a copy".

Amendments to Schedule 2 – forms

17.—(1) In the forms in Schedule 2 to the current principal Rules listed below, the contents are amended as follows—

(a) in Form 3.10, for "An office copy", substitute "A copy";

(b) in Form 4.02, for "memorandum of association of the company", substitute "the company's articles";

(c) in Form 4.05—

(i) in the heading, for "Part XXIII", substitute "overseas"; and

(ii) in the note, for "oversea", substitute "overseas"; and

(d) in Form 4.14, for "memorandum of association of the company", substitute "the company's articles".

(2) For Form 5.2, substitute the new Form 5.2 in Part 1 of the Schedule to these Rules.

Amendments to the former principal Rules

18. Subject to Rule 2, the former principal Rules shall be amended as set out in Rules 19 to 24.

Amendment of former Rule 2.34

19.—(1) Former Rule 2.34 is amended as follows.

(2) In paragraph (5), for "Companies Order", substitute "Companies Act".

Amendment of former Rule 2.36

20.—(1) Former Rule 2.36 is amended as follows.

(2) In paragraph (2), for "Article 383 of the Companies Order", substitute "section 323 of the Companies Act".

Amendment of former Rule 2.40

21.—(1) Former Rule 2.40 is amended as follows.

(2) In paragraph (2), for "Article 383 of the Companies Order", substitute "section 323 of the Companies Act".

Amendment of former Rule 2.62

22.—(1) Former Rule 2.62 (preservation of certification with company's records) is amended as follows.

(2) In paragraph (1), for "Article 230 of the Companies Order", substitute "sections 388 and 389 of the Companies Act".

Amendments to Schedule 2 to the former principal Rules

23. In the index to forms in Schedule 2 to the former principal Rules, for the entry for Form 2.01, substitute—

"2.01 (SAR) Petition for administration order (Special Administration Regimes)".

24. For Form 2.01, substitute the new Form 2.01 (SAR) in Part 2 of the Schedule to these Rules.

Signed by authority of the Lord Chancellor

BridgetPrentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 4th December 2009