STATUTORY RULES OF NORTHERN IRELAND

2006 No. 515

INSOLVENCY

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

Made - - - - 13th December 2006

To be laid before Parliament

Coming into operation 8th January 2007

The Lord Chancellor, with the concurrence of the Lord Chief Justice and the Department of Enterprise, Trade and Investment(**1**) makes the following Order in exercise of the powers conferred by Article 364 of the Insolvency (Northern Ireland) Order 1989(**2**) and Article 24(1) of the Company Directors Disqualification (Northern Ireland) Order 2002(**3**).

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 8th January 2007 ("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(**4**)

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—

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

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

(**3**) S.I. 2002/3150 (N.I. 4)

(**4**) 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.

(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.";

(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—