STATUTORY RULES OF NORTHERN IRELAND

2003 No. 144

INSOLVENCY

The Insolvent Partnerships (Amendment) Order (Northern Ireland) 2003

Made - - - -	*3rd March 2003*
To be laid before Parliament	
Coming into operation	*1st April 2003*

The Lord Chancellor, in exercise of the powers conferred upon him by Article 364(1) of the Insolvency (Northern Ireland) Order 1989(**1**), and of all other powers enabling him in that behalf, with the concurrence of the Department of Enterprise, Trade and Investment(**2**), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Insolvent Partnerships (Amendment) Order (Northern Ireland) 2003 and shall come into operation 1st April 2003.

(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(**3**).

(3) In this Order a reference to a "modified Article" means an Article of the Order as modified by, and set out in, the 1995 Order.

Amendments to the Insolvent Partnerships Order (Northern Ireland) 1995

2.—(1) The 1995 Order is amended as provided in this Order.

(2) Anything done before 1st April 2003 under or for the purposes of any provision of the 1995 Order is not invalidated by the amendment of that provision by this Order, but it has effect as if done under or for the purposes of the provision as amended.

(**1**) S.I. 1989/2405 (N.I. 19) – to which the most recent relevant amendments were made by S.R. 2002 No. 223
(**2**) Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1)
(**3**) S.R. 1995 No. 225 as amended by S.R. 1996 No. 472

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

3. In Article 7(1) of the 1995 Order (winding up of insolvent partnership as unregistered company (no concurrent petition)) after "petition of a creditor," insert –

> "of a liquidator (within the meaning of Article 2(b) of the EC Regulation(**4**)) appointed in proceedings by virtue of Article 3(1) of the EC Regulation, of a temporary administrator (within the meaning of Article 38 of the EC Regulation),".

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

4.—(1) In Article 8(1) of the 1995 Order (winding up of insolvent partnership as unregistered company (concurrent petition)) for a "creditor's petition" substitute –

> "the petition of a creditor, of a liquidator (within the meaning of Article 2(b) of the EC Regulation) appointed in proceedings by virtue of Article 3(1) of the EC Regulation, or of a temporary administrator (within the meaning of Article 38 of the EC Regulation)".

(2) For the heading of Article 8 of the 1995 Order substitute –

> "Winding up of insolvent partnership as unregistered company on the petition of creditor etc., where concurrent petitions presented against one or more members".

Amendments to Schedules 3, 4, 5 and 6 to the Insolvent Partnerships Order (Northern Ireland) 1995

5.—(1) In paragraph 3 of Schedule 3 to the 1995 Order (Article 185: Winding up of unregistered companies), paragraph 3 of Schedule 4 to the 1995 Order. Schedule 5 to the 1995 Order and paragraph 3 of Schedule 6 to the 1995 Order, in each case, after modified Article 185(3) and before Article 185(4) insert –

> "(3A) The preceding paragraphs are subject to Article 3 of the EC Regulation (jurisdiction under the EC Regulation).".

(2) In paragraph 8 of Schedule 4 to the 1995 Order (Articles 104 and 238: Applications to wind up insolvent partnership and to wind up or bankrupt member) in paragraph (2) of modified Articles 104 and 238 after the words "may be presented by" insert the following words –

> "a liquidator (within the meanings of Article 2(b) of the EC Regulation) appointed in proceedings by virtue of Article 3(1) of the EC Regulation, a temporary administrator (within the meaning of Article 38 of the EC Regulation) or".

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

6. The forms contained in the Schedule to this Order are substituted for the forms identically numbered in Schedule 9 to the 1995 Order.

Dated 3rd March 2003 *Irvine of Lairg,* C.

(**4**) Council Regulation (EC) 1346/2000, (O.J. No. L160, 30.06.00. p. 1)

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 6th March 2003.

M. Bohill
Senior Officer of the
Department of Enterprise, Trade and Investment

SCHEDULE **Article 6**

AMENDED FORMS

FORM 1Petition for Administration OrderIN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND CHANCERY DIVISION (BANKRUPTCY)

Schedule 2 para 3 Art. 22(1)

(a) Insert full name(s) and address(es) of petitioner(s)

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

The petition of

(b) Insert full name(s) and address(es) of petitioner(s)

(b)_____

_____

[a] Delete if petition presented by the partnership's members

presented (a)[by the members] under Article 22 of the Insolvency (Northern Ireland) Order 1989 as modified by the Insolvent Partnerships Order (Northern Ireland) 1995

1. The principal place of business of the partnership is

(d) Insert address of principal place of business

(d)_____

_____

2. The nature of the partnership's business is

(e) Insert nature of partnership's business

(e)_____

3. The petitioner(s) believe(s) that the partnership is unable to pay its debts and that an administration order would be likely to achieve:

(f) Delete as appropriate

(f) (i) the survival of the whole or any part of the undertaking of the partnership as a going concern

(ii) the approval of a voluntary arrangement with its creditors under Part II of the Insolvency (Northern Ireland) Order 1989 as modified by the Insolvent Partnerships Order (Northern Ireland) 1995

(iii) a more advantageous realisation of the partnership property than would be effected on a winding up

for the reasons stated in the affidavit of

(g) Insert name of person swearing affidavit

(g)_____

_____

filed in support hereof

4. The partnership (f) is/is not a credit institution, an insurance undertaking, an investment undertaking providing services involving the holding of funds or securities for third parties, or a collective investment undertaking referred to by Article 1.2 of the EC Regulation.

(h) Insert whether main, secondary or territorial proceedings

5. For the reasons stated in the affidavit of (g)_____ it is considered that the EC Regulation (f) will/will not apply and that these proceedings will be (h) _____ proceedings as defined in Article 3 of the EC Regulation

6 The petitioner(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

(i) insert full name(s) and address(es) of proposed administrator(s)

(i) _____

who is (are) to the best of the petitioner's(s') knowledge and belief qualified to act as (an) insolvency practitioner(s) in relation to the partnership.

The petitioner(s) therefore pray(s) as follows:

(j) insert full name of partnership

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

_____

(k) insert name(s) of proposed administrator(s)

(2) that (k) _____

_____

be appointed to be the administrator(s) of the said partnership

(l) insert details of any ancillary powers sought

(3)(l)

_____

_____

or

(4) that such order may be made in the premises as shall be just.

Note:

It is intended to serve this petition on _____

(m) Insert here the address, telephone number, fax number and reference (if any) of solicitor acting for the petitioner(s)

This petition was issued by (m)_____

_____

(solicitor for) the petitioner(s) whose address for service is: _____

_____

ENDORSEMENT

This petition against the partnership having been presented to the Court on

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

on:

Date _____

Time

(or as soon thereafter as the petition can be heard)