STATUTORY RULES OF NORTHERN IRELAND

2003 No. 103

INSOLVENCY
INDIVIDUALS

The Administration of Insolvent Estates of Deceased Persons (Amendment) Order (Northern Ireland) 2003

Made - - - - *19th February 2003*

To be laid before Parliament

Coming into operation *1st April 2003*

The Lord Chancellor, in exercise of the powers conferred upon him by Articles 365(1) of the Insolvency (Northern Ireland) Order 1989(**1**) and of all the 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 Administration of Insolvent Estates of Deceased Persons (Amendment) Order (Northern Ireland) 2003 and shall come into operation on 1st April 2003.

(2) In this Order, references to "the 1991 Order" are references to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991(**3**).

Amendments to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991

2.—(1) The 1991 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 1991 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. 1991 No. 365

Amendments to Schedules to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991

3.—(1) After paragraph 5(c) of Part II of Schedule 1 to the 1991 Order (who may present a bankruptcy petition) insert–

"(ca) at the end of paragraph 1(ba) there shall be added the words "in Form 1, with such variations as the case requires (if any), set out in Schedule 3 to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991";

(cb) at the end of paragraph 1(bb) there shall be added the words "in Form 1, with such variations as the case requires (if any), set out in Schedule 3 to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991";"

(2) For paragraph 6(a) of Part II of Schedule 1 to the 1991 Order (modified version of Article 240 of the Insolvency (Northern Ireland) Order 1989) substitute–

"(a) for paragraph (1) there shall be substituted the following:–

"(1) An insolvency administration petition shall:–

(a) if a liquidator (within the meaning of Article 2(b) of the EC Regulation(**4**)) has been appointed in proceedings by virtue of Article 3(1) of the EC Regulation in relation to the deceased debtor, be served on him;

(b) unless the High Court directs otherwise, be served on the personal representative; and

(c) be served on such other persons as the Court may direct."; and".

(3) For paragraph 30 of Part II of Schedule 1 to the 1991 Order (modified version of Article 303 of the Insolvency (Northern Ireland) Order 1989) substitute–

30. Article 303 with the following modifications:–

(a) in paragraph (5) for the words "the bankrupt is entitled to the surplus" there shall be substituted the words "the surplus shall be paid to the personal representative unless the Court otherwise orders", and

(b) after paragraph (5) there shall be added:–

"(6) Paragraph (5) is subject to Article 35 of the EC Regulation (surplus in secondary proceedings to be transferred to main proceedings).".

(4) The forms contained in the Schedule to this Order are substituted for the forms identically numbered in Schedule 3 to the 1991 Order.

Dated 19th February 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 26th February 2003.

Michael J. Bohill
Senior officer of the
Department of Enterprise, Trade and Investment

SCHEDULE Article 3

AMENDED FORMS

THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS ORDER (NORTHERN IRELAND) 1991

FORM 1CREDITOR'S PETITION FOR INSOLVENCY ADMINISTRATION ORDERIn the High Court of Justice in Northern Ireland Chancery Division (Bankruptcy)

* Insert name and description identifying any reputed trading name of deceased debtor

Re*

(a) Insert full name and address of petitioner

I/We (a) _____

_____

petition the court that an order be made for the administration of the insolvent estate in bankruptcy of the late

(b) Insert full name and former occupation of deceased debtor

(b) _____

(c) Insert in full any other name by which the deceased debtor was known

|also known as (c) |

(d) Insert any address(es) at which the deceased debtor has resided at or after the time that the debt in relation to which he died became due

|and lately residing at (d) _____

|

(e) Insert trading name (adding "with another or others" if that was not the sole trading name) and nature of business carried on by the deceased debtor at or after the time the petition debt was incurred

|and lately carrying on business as (e) _____

|

(f) Insert date of death

who died on (f)

and say as follows: –

(g) Delete as applicable

1. (g) The deceased debtor's centre of main interests, being the place where he/she conducted the administration of his/her interests, was located within the United Kingdom, at

OR

The deceased debtor's centre of main interests was located outside the United Kingdom but within the European Union and he/she had an establishment as defined by EC Regulation No. 1346/2000 within Northern Ireland at

OR

The deceased debtor's centre of main interests was located outside the European Union.

OR

The deceased debtor carried on business as an insurance undertaking, a credit institution, investment undertaking providing services involving the holding of funds or securities for third parties, or a collective investment undertaking as referred to in art 1.2 of the EC Regulation.

2. (g) The proceedings will be main OR secondary OR territorial proceedings for the purposes of the EC Regulation.

OR

The proceedings do not fall within the EC Regulations.

Under the EC Regulation:

(i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.

(ii) Establishment is defined as "any place of operations where the debtor carries out a non-transitory economic activity with human means and goods".

(h) Give the amount of the debt, what they relate to and when they were incurred. Show separately the amount or rate of any interest or other charge not previously notified to the deceased debtor and the reasons why you make claim for it

3. The estate of the deceased debtor is justly and truly indebted to me [us] in the aggregate sum of £(h)_____

(j) State date payable or "immediately" if this is so

4. The above-mentioned debt is [or a liquidated sum payable (j)] and the estate of the deceased debtor is according to my/our information and belief insufficient to pay his debts.

5. I/We do not, nor does any person on my/our behalf, hold any security on the deceased debtor's estate, or any part thereof, for the payment of the above-mentioned sum.

OR

I/We hold security for the payment of (g) [part of] the above mentioned sum.

I/We will give up such security for the benefit of all the creditors in the event of an insolvency administration order being made.

OR