STATUTORY RULES OF NORTHERN IRELAND

1991 No. 438 (C. 22)

COMPANIES
FINANCIAL SERVICES

Companies (1990 No. 2 Order) (Commencement No. 5) Order (Northern Ireland) 1991

Made - - - - 25th September 1991

The Department of Economic Development, in exercise of the powers conferred on it by Article 1 of the Companies (No. 2) (Northern Ireland) Order 1990(**1**) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(**2**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Companies (1990 No. 2 Order) (Commencement No. 5) Order (Northern Ireland) 1991.

(2) In this Order "the 1986 Order" means the Companies (Northern Ireland) Order 1986(**3**) and "the 1990 (No. 2) Order" means the Companies (No. 2) (Northern Ireland) Order 1990.

(3) In this Order—

(a) "insolvency proceedings" means proceedings in relation to any case where—

(i) a receiver or manager of the whole (or substantially the whole) of a company's property is appointed, or

(ii) a petition is presented to the court for the winding up of a company; or

(iii) a resolution is made for the voluntary winding up of a company and no director's statutory declaration of solvency has been made; or

(iv) a petition is presented to the court to obtain adjudication of bankruptcy; or

(v) a petition is presented to the court for protection under section 343 of the Irish Bankrupt and Insolvent Act 1857(**4**); or

(vi) a petition is presented to the court for the administration according to the law of bankruptcy of the estate of a deceased debtor; or

(**1**) S.I. 1990/1504 (N.I. 10)
(**2**) 1974 c. 28
(**3**) S.I. 1986/1032 (N.I. 6)
(**4**) 1857 c. 60

(vii) a debtor has entered into a deed of arrangement for the benefit of his creditors generally to which the Deeds of Arrangement Act 1887(**5**) applies;

(b) references to the beginning of insolvency proceedings are to the time at which—

(i) the receiver or manager referred to in sub-paragraph (a)(i) is appointed; or

(ii) the petition referred to in sub-paragraph (a)(ii), (iv), (v) or (vi) is presented; or

(iii) a resolution referred to in sub-paragraph (a)(iii) is made; or

(iv) a deed of arrangement referred to in sub-paragraph (a)(vii) is registered.

Provisions of the 1990 (No. 2) Order brought into operation by this Order

2. The following provisions of the 1990 (No. 2) Order shall come into operation on 1st October 1991:

(a) Part II, insofar as not already in operation except for Article 13(2)(g) thereof to the extent that it refers to a body established by order under Article 48 of the Companies (Northern Ireland) Order 1990(**6**);

(b) Article 60, subject to the transitional provisions set out in Article 3;

(c) Article 61, insofar as it is not already in operation, and

(d) in Part V, Articles 79 to 91, 95 to 97, 99, 101, 102 and 104 to 112, subject, in the case of Articles 83, 89, 96(1), 97, 99, 101 and 102, to the transitional provisions specified in Article 4.

Transitional provisions relating to Article 60 of the 1990 (No. 2) Order

3.—(1) Notwithstanding the repeal of Article 658(2) and (3) of the 1986 Order, as originally enacted, by the coming into operation by virtue of this Order of Article 60 of the 1990 (No. 2) Order, Article 658(2) and (3), as originally enacted, shall continue to have effect, with the modifications set out in paragraph (2), to the extent that the repeal of Article 658(2) and (3) by section 212(3) of, and Part II of Schedule 17 to, the Financial Services Act 1986(**7**) has not been brought into force by order under section 211 of that Act.

(2) Article 658(2), as originally enacted, shall continue to have effect by virtue of this Article as if the reference therein to the "rights conferred by paragraph (1)" was a reference to the rights conferred by Article 658(1) of the 1986 Order as substituted by Article 60 of the 1990 (No. 2) Order and the reference to "those rights" in Article 658(3), as originally enacted, shall be construed accordingly.

Transitional provisions relating to provisions of Part V of the 1990 (No. 2) Order brought into operation by this Order

4.—(1) Article 83 of the 1990 (No. 2) Order shall not impose a duty on any person where insolvency proceedings relating to the defaulter in question have begun before the Article comes into operation.

(2) Article 89 of the 1990 (No. 2) Order shall not have effect to enable a direction to be given where insolvency proceedings relating to the person in question have begun before the Article comes into operation.

(3) Articles 96(1) and 97 of the 1990 (No. 2) Order shall not have effect where the relevant insolvency proceedings have begun before the Articles come into operation.

(**5**) 1887 c. 57
(**6**) S.I. 1990/593 (N.I. 5)
(**7**) 1986 c. 60