1991 No. 368

INSOLVENCY

The Insolvent Companies (Reports on Conduct of Directors) Rules (Northern Ireland) 1991

Made . . . . . *5th August 1991*

Coming into operation . . . . . *1st October 1991*

To be laid before Parliament

The Lord Chancellor, in exercise of the powers conferred on him by Article 359 of the Insolvency (Northern Ireland) Order 1989(**a**) and Article 24(1) of the Companies (Northern Ireland) Order 1989(**b**), with the concurrence of the Department of Economic Development ("the Department"), and after consulting the committee existing for that purpose under Article 360 of the Insolvency (Northern Ireland) Order 1989, hereby makes the following Rules—

Citation and commencement

1.—(1) These Rules may be cited as the Insolvent Companies (Reports on Conduct of Directors) Rules (Northern Ireland) 1991.

(2) These Rules shall come into operation on 1st October 1991.

Interpretation

2.—(1) In these Rules "the Order" means the Companies (Northern Ireland) Order 1989 (any reference to a numbered Article being to an Article of that Order).

Reports required under Article 10(3)

3.—(1) This Rule applies to any report made to the Department under Article 10(3) by—

(*a*) the liquidator of a company which passes a resolution for voluntary winding up on or after the commencement date;

(**a**) S.I. 1989/2405 (N.I. 19)
(**b**) S.I. 1989/2404 (N.I. 18)

(*b*) the administrator of a company in respect of which the High Court makes an administration order on or after the commencement date; or

(*c*) an administrative receiver of a company appointed on or after the commencement date.

(2) Such a report shall be made in Form D1, D2 or D6 set out in the Schedule, as the case may be, and in the manner and to the extent required by the applicable form.

Return by office-holder

4.—(1) This Rule applies where it appears to a liquidator of a company as mentioned in Rule 3(1)(*a*), to an administrator as mentioned in Rule 3(1)(*b*), or to an administrative receiver as mentioned in Rule 3(1)(*c*) (each of whom is in this Rule referred to as "the office-holder") that the company has at any time become insolvent within the meaning of Article 9(2).

(2) Subject to paragraphs (3) to (6) there may be furnished to the Department by an office-holder at any time during the period of 6 months from the relevant date (defined in paragraph (4)) a return with respect to every person who—

(*a*) was, on the relevant date a director or shadow director of the company, or

(*b*) had been a director or shadow director of the company at any time in the 3 years immediately preceding that date.

(3) The return shall be made in Form D3, D4, D5 or D7 set out in the Schedule, as the case may be, and in the manner and to the extent required by the applicable form.

(4) For the purposes of this Rule, "the relevant date" means—

(*a*) in the case of a company in a creditors' voluntary winding up (there having been no declaration of solvency by the directors under Article 75 of the Insolvency (Northern Ireland) Order 1989) the date of the passing of the resolution for voluntary winding up;

(*b*) in the case of a company in a members' voluntary winding up the date on which the liquidator forms the opinion that, at the time when the company went into liquidation, its assets were insufficient for the payment of its debts and other liabilities and the expenses of winding up;

(*c*) in the case of the administrative receiver, the date of his appointment;

(*d*) in the case of the administrator, the date of the administration order made in relation to the company;

and for the purposes of sub-paragraph (*c*) the only appointment of an administrative receiver to be taken into account in determining the relevant date shall be that appointment which is not that of a successor in office to an administrative receiver who has vacated office either by death

or pursuant to Article 55 of the Insolvency (Northern Ireland) Order 1989.

(5) It shall be the duty of the responsible office-holder to furnish to the Department with respect to the persons specified in paragraph (2) a return complying with the provisions of paragraphs (3) and (4) not later than the expiry of the period of 6 months from the relevant date where no return has been so furnished by a day one week before the expiry of that period: and for the purposes of this paragraph the responsible office-holder shall be the person in office in relation to the company on the day specified or where no person is in office on that day, the office-holder who vacated office nearest to that day.

(6) A return need not be provided under this Rule if an office-holder has, since the relevant date, made reports to the Department under Article 10(3) with respect to all the persons falling within paragraph (2) and (apart from this paragraph) required to be the subject of return.

(7) If a responsible office-holder without reasonable excuse fails to comply with the duty imposed by paragraph (5), he is liable to a fine not exceeding £400 and, for continued contravention, to a daily default fine not exceeding £40.

Enforcement of Article 10(4)

5.—(1) This Rule applies where under Article 10(4) (power to call on liquidators, former liquidators and others to provide information) the Department or the official receiver requires a person—

(*a*) to furnish him with information with respect to a person's conduct as director or shadow director of a company; and

(*b*) to produce and permit inspection of relevant books, papers and other records.

(2) On the application of the Department or (as the case may be) the official receiver, the High Court may make an order directing compliance within such period as may be specified.

(3) The Rules of the Supreme Court (Northern Ireland) 1980(**a**) and the practice of the High Court apply to applications under this Rule, with any necessary modifications.

(4) The High Court's order may provide that all costs of and incidental to the application shall be borne by the person to whom the order is directed.

Dated 5th August 1991. *Mackay of Clashfern, C.*

(**a**) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1981 No 224; SR 1983 No. 5; SR 1983 No. 114 and SR 1986 No. 203.

The Department of Economic Development hereby concurs with the foregoing Rules.

Sealed with the Official Seal of the Department of Economic Development on 12th August 1991.

(L.S.)

A. H. McAlister
Assistant Secretary

SCHEDULE RULES 3(2) and 4(3)
D1

COMPANIES IN VOLUNTARY LIQUIDATION

REPORT ON CONDUCT OF DIRECTORS UNDER ARTICLE 10(3) OF THE COMPANIES (NORTHERN IRELAND) Order 1989

Before completing this form read the DED Guidance Notes

		Official Use
Company registered number		
Name of Company		
Registered Office address		
Nature of Business		
Trading Names		
Principal place of business		
Date of liquidation		
Name of Liquidator		
Office holder number		
Liquidator's address		
Period covered by report	From: _____ To: _____	

1. I am the liquidator of the company and it appears to me that the persons listed in the schedule were either directors or shadow directors of the company and **were the only** such directors of the company during the period covered by this report.
2. It further appears to me that the conduct of each of the persons in respect of whom I have marked Y in column 5 in the schedule as a director of the company, either considered in relation to this company alone or taken together with his conduct as a director of any other company, makes him unfit to be concerned in the management of a company. Details of his conduct are provided in Part D1(B) of the report.

Schedule

1	2	3	4		5
Full name and other known names	Last known address	Mark X if Shadow Director	Period as Director From	To	If you have attached supplementary details please mark with a Y

Liquidators' Signature _____
Date _____
Remember to attach forms D1(A) and D1(B)