1991 No. 367

INSOLVENCY

The Insolvent Companies (Disqualification of Unfit Directors) Proceedings 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. These Rules may be cited as the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules (Northern Ireland) 1991 and shall come into operation on 1st October 1991.

Interpretation

2. In these Rules—

"the 1986 Order" means the Companies (Northern Ireland) Order 1986(**c**);

"the 1989 Order" means the Companies (Northern Ireland) Order 1989;

"the court" means the High Court of Justice in Northern Ireland (Chancery Division);

"file in court" means deliver to the Bankruptcy and Companies Office for filing;

(**a**) S.I. 1989/2405 (N.I. 19)
(**b**) S.I. 1989/2404 (N.I. 18)
(**c**) S.I. 1986/1032 (N.I. 6)

"the Judge" means the Chancery Judge or any Judge of the High Court or of the Court of Appeal for the time being acting as Chancery Judge;

"the Master" means the Master (Bankruptcy); and

"Supreme Court Rules" means the Rules of the Supreme Court (Northern Ireland) 1980(**a**).

(3) These Rules apply with respect to an application for a disqualification order against any person ("the respondent"), where made—

(*a*) by the Department or the official receiver under Article 10(1) of the 1989 Order (on the grounds of the person's unfitness to be concerned in the management of a company), or

(*b*) by the Department under Article 11 of the 1989 Order (alleged to be expedient in the public interest following report of inspectors under Article 430 of the 1986 Order or Article 16A of the Company Securities (Insider Dealing) (Northern Ireland) Order 1986(**b**) or information or documents obtained under Article 440 or 441 of the 1986 Order),

on or after the date on which these Rules come into operation.

Form of Application

3.—(1) An application to which these Rules apply shall be made by originating summons (Form 7 in Appendix A to the Supreme Court Rules, with such adaptation as may be appropriate), and the Supreme Court Rules apply accordingly, except where these Rules make provision to inconsistent effect.

(2) The summons shall be issued out of the Bankruptcy and Companies Office.

The case against the respondent

4.—(1) There shall, at the time when the summons is issued, be filed in the court evidence in support of the application for a disqualification order; and copies of the evidence shall be served with the summons on the respondent.

(2) The evidence shall be by one or more affidavits, except where the applicant is the official receiver, in which case it may be in the form of a written report (with or without affidavits by other persons) which shall be treated as if it had been verified by affidavit by him and shall be prima facie evidence of any matter contained in it.

(3) There shall in the affidavit or affidavits or (as the case may be) the official receiver's report be included a statement of the matters by reference to which the respondent is alleged to be unfit to be concerned in the management of a company.

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

(**b**) S.I. 1986/1034 (N.I. 8) as inserted by S.I. 1989/2404 (N.I. 18) Art. 31

Endorsement on summons

5. There shall on the summons be endorsed information to the respondent as follows—

(*a*) that the application is made in accordance with these Rules;

(*b*) that, in accordance with the relevant enactments, the court has power to impose disqualifications as follows—

(i) where the application is under Article 10 of the 1989 Order, for a period of not less than 2, and up to 15, years; and

(ii) where the application is under Article 11 of that Order, for a period of up to 15 years;

(*c*) that the application for a disqualification order may, in accordance with these Rules, be heard and determined summarily, without further or other notice to the respondent, and that, if it is so heard and determined, the court may impose disqualification for a period of up to 5 years;

(*d*) that if at the hearing of the application the court, on the evidence then before it, is minded to impose, in the respondent's case, disqualification for any period longer than 5 years, it will not make a disqualification order on that occasion but will adjourn the application to be heard (with further evidence, if any) at a later date to be notified;

(*e*) that the respondent must file in court the statement required by Rule 7 within the time limit imposed under that Rule (the provisions of which shall be endorsed on the summons); and

(*f*) that any evidence which the respondent wishes to be taken into consideration by the court must be filed in court in accordance with the time limits imposed under Rule 8 (the provisions of which shall be endorsed on the summons).

Service

6.—(1) The summons shall be served on the respondent forthwith after it is issued by sending it by first class post to his last known address; and the date of service shall, unless the contrary is shown, be deemed to be the 7th day next following that on which the summons was posted.

(2) Where any process or order of the court or other document is required under proceedings subject to these Rules to be served on any person who is not in Northern Ireland the court may order service on him of that process or order or other document to be effected within such time and in such manner as it thinks fit, and may also require such proof of service as it thinks fit.

Statement by respondent

7.—(1) The respondnet shall within 14 days from the date of service of the summons file in court a statement indicating—

(*a*) whether he contests the application on the grounds that, in the case of any particular company—