
EXPLANATORY NOTE

(This note is not part of the Rules.)

The Rules amend the Insolvency Rules (Northern Ireland) 1991 (“the 1991 Rules”), primarily to take account of the changes made to the Insolvency (Northern Ireland) Order 1989 (“the 1989 Order”) by the Insolvency (Northern Ireland) Order 2002.

In particular –

- (i) the regulation-making power in Rule 12.01 of the 1991 Rules is amended to permit the Department to make regulations with respect to the investment of monies received by a trustee of a bankrupt’s estate and for the payment of interest on sums which, in pursuance of regulations made under rule 12.01, are paid by such a trustee into the Insolvency Account (see rule 9);
- (ii) references to “authorised persons” are inserted into Part I of the 1991 Rules, (company voluntary arrangements). This reflects the new Article 348A of the 1989 Order, which allows qualified persons other than insolvency practitioners to act as nominees or supervisors in relation to company voluntary arrangements (see for example, paragraph 5 of Schedule 1 to the Rules);
- (iii) a new rule 1.13(3) is inserted into the 1991 Rules (see paragraph 6 of Schedule 1 to the Rules), to allow for the holding of members' meetings or creditors' meetings on different days (previously they had to be held on the same day);
- (iv) the rules regarding creditors' entitlement to vote are amended so as to provide that creditors with unliquidated claims are always entitled to vote for £1, unless the chairman of the meeting agrees to put a higher value on the claim. This means that creditors with liquidated or unliquidated claims will be bound by an arrangement if, for some reason, they do not receive notice of the meeting;
- (v) rule 1.22 of the 1991 Rules is amended and a new Rule 1.22A is inserted in consequence of the new Article 17A of the 1989 Order, which allows for a voluntary arrangement to have effect, notwithstanding that the members of the company do not vote in favour of it;
- (vi) a number of provisions are introduced in consequence of the new Article 14A of, and Schedule A1 to, the 1989 Order. These provisions allow the directors of eligible companies (broadly speaking, small companies) to obtain a moratorium with a view to obtaining the approval of a proposal for a voluntary arrangement;
- (vii) Part IV of the 1991 Rules is amended so as to enable liquidators to recover the costs of bringing certain actions (e.g. under Article 178 of the 1989 Order) from the assets of the company (see Part II of Schedule 1 to the Rules);
- (viii) a new Chapter 2 of Part V (individual voluntary arrangements) is substituted into the 1991 Rules. The same amendments regarding voting rights are made as in relation to company voluntary arrangements (see Part III of the Schedule 1 to the Rules);
- (ix) provision is made for the deletion of certain information from the register of individual voluntary arrangements. Also, the duty which the supervisor of an individual voluntary arrangement is under to issue a notice and report to creditors, the debtor, the Department and the court on the arrangement being fully implemented is extended to apply to cases where an arrangement has been terminated (see Part III of Schedule 1 to the Rules);

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- (x) Part VI of the 1991 Rules is amended so as to enable a trustee in bankruptcy to recover from the bankruptcy estate the costs of bringing certain actions (e.g. actions under Article 312 (transactions at an undervalue)) (see Part IV of the Rules);
- (xi) a number of new forms are inserted into Schedule 2 to the 1991 Rules and, accordingly, the index to that Schedule is revised (see Schedule 2 to the Rules).