

**2005 No. 517**

**INSOLVENCY**

**The Insolvent Companies (Disqualification of Unfit Directors)  
Proceedings (Amendment) Rules (Northern Ireland) 2005**

*Made* - - - - - *17th November 2005*

*Coming into operation* - *19th December 2005*

*To be laid before Parliament*

The Lord Chancellor, in exercise of the powers under Article 359 of the Insolvency (Northern Ireland) Order 1989(a) and Article 24(1) of the Company Directors Disqualification (Northern Ireland) Order 2002(b), and of all other powers enabling him in that behalf, with the concurrence of the Department of Enterprise, Trade and Investment(c), and after consulting the committee in existence 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 (Amendment) Rules (Northern Ireland) 2005 and shall come into operation on 19th December 2005.

**Interpretation**

2. In these Rules, references to the “principal Rules” are to the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules (Northern Ireland) 2003(d).

**Amendment of the principal Rules**

3. The principal Rules shall be amended as set out in the Schedule to these Rules.

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(a) S.I. 1989/2405 (N.I. 19)

(b) S.I. 2002/3150 (N.I. 4), as amended by the Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 S.I. 2005/1454 (N.I. 9)

(c) Formerly the Department of Economic Development; see S.I. 1999/283 (N.I. 1), Article 3(5)

(d) S.R. 2003 No.358

Signed by the authority of the Lord Chancellor

Bridget Prentice  
Parliamentary Under-Secretary of State, Department for Constitutional Affairs

Dated 17th November 2005

The Department of Enterprise, Trade and Investment hereby concurs with the foregoing Rules.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 23rd  
November 2005



*M Bohill*  
A senior officer of the Department of Enterprise, Trade and Investment

## SCHEDULE

Rule 3

### 1. Amendment of Rule 1 (citation, commencement and interpretation)

(1) Rule 1 of the principal Rules shall be amended as follows.

(2) At the end of paragraph 3(b) insert —

“or

(c) by the Office of Fair Trading or (as the case may be) a specified regulator under Article 13A of that Order (breach of competition law by undertaking and unfitness to be concerned in the management of a company),”

### 2. Amendment of Rule 4 (endorsement on summons)

(1) Rule 4 of the principal Rules shall be amended as follows.

(2) In sub-paragraph (b)(ii) for the words “under Article 11 of that Order” there is substituted “under Article 11 or 13A of that Order”.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Rules amend the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules (Northern Ireland) 2003 (“the principal Rules”) which provide procedures for applications by the Department of Enterprise, Trade and Investment or the official receiver for the disqualification of directors by the High Court in Northern Ireland under Articles 10 and 11 of the Company Directors (Disqualification) (Northern Ireland) Order 2002 (“the 2002 Order”).

The 2002 Order, as amended by the Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 enables the Office of Fair Trading and certain specified regulators (listed in Article 13E(2) of the 2002 Order) to make an application to the High Court for a competition disqualification order. The court will be under an obligation to make a competition disqualification order where it is satisfied that the company has committed a breach of competition law, as defined in the 2002 Order, and where it considers that the conduct of the director in relation to that competition breach makes him unfit to be concerned in the management of a company.

The amendments to the principal Rules provide for the procedures as set out in those Rules to apply to applications in Northern Ireland made by the Office of Fair Trading or a specified regulator under Article 13A of the 2002 Order.

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