EXPLANATORY MEMORANDUM TO

THE COMPENSATION ORDERS (DISQUALIFIED DIRECTORS) PROCEEDINGS (NO. 2) RULES (NORTHERN IRELAND) 2025

S.R. 2025 No. 121

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for the Economy ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 359 of the Insolvency (Northern Ireland) Order 1989 read with Article 24 of the Company Directors Disqualification (Northern Ireland) Order 2002 ("the CDDO") and is subject to the negative resolution procedure.

2. Purpose

2.1. The Rules set out the procedures to be followed by the Department when applying for a compensation order under Article 19A of the CDDO, or by a person subject to a compensation undertaking when applying under Article 19C of the CDDO to have the undertaking varied or revoked and by the High Court when hearing such applications.

2.2. The Rules revoke the Compensation Orders (Disqualified Directors) Proceedings Rules (Northern Ireland) 2025, which contained an inadvertent error and re-enact the Rules in substantively the same terms with the error corrected.

3. Background

3.1. Articles 19A to 19C of the CDDO were inserted by section 112 of, and paragraph 8 of Schedule 8 to the Small Business, Enterprise and Employment Act 2015. They make it possible for the Department to either apply to the High Court ("the Court") for an order requiring a disqualified director to compensate creditors for losses suffered as a result of the director's misconduct, or alternatively, to accept an undertaking from the director with equivalent effect.

3.2. The main purpose of the CDDO is to provide protection to the market and consumers from directors whose conduct falls below expected standards. The new powers are intended to increase the likelihood of creditors of an insolvent company who have suffered loss as a result of misconduct by its directors receiving compensation.

3.3. These Rules establish procedures to be followed when applying for a compensation order or to have a compensation undertaking varied or revoked, and make provision about the procedure to be followed by the Court when hearing such applications.

4. Consultation

4.1. The Department has consulted the Insolvency Rules Committee which has agreed to the making of these Rules.

5. Equality Impact

5.1. An equality impact assessment has not been prepared for this instrument. It is considered that it fully complies with section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1. A regulatory impact assessment has not been prepared for this statutory rule as it has minimal impact on the private, voluntary and public sectors.

7. Financial Implications

7.1. It is not anticipated that there will be any additional cost to the public purse as a result of this legislation.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department for the Economy considers that these Rules are compliant with section 24 of the Northern Ireland Act 1998. The Rules are not incompatible with any of the Convention rights or with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, they do not discriminate against a person or class of person on the grounds of religious belief or political opinion and they do not modify any enactment in breach of section 7 of the Northern Ireland Act 1998. These Rules are considered compliant with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. These Rules replicate the Compensation Orders (Disqualified Directors) Proceedings (England and Wales) Rules 2016 (S. 2016/890).

11. Additional Information

11.1. The Department intends to make a further piece of legislation to allow it to charge a fee for any necessary disbursements to creditors or expenses properly incurred.