1994 No. 26

INSOLVENCY

The Insolvency (Amendment) Rules (Northern Ireland) 1994

Made . . . . . *26th January 1994*

Coming into operation . . *1st March 1994*

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 section 19(3) of the Registration of Deeds Act (Northern Ireland) 1970(**b**), with the concurrence of the Department of Economic Development and after consulting the committee existing for that purpose under Article 360 of the said Order, and with the concurrence of the Department of the Environment for Northern Ireland in the exercise of the powers conferred on him by section 19(3) of the said Act, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Insolvency (Amendment) Rules (Northern Ireland) 1994 and shall come into operation on 1st March 1994.

Interpretation

2. In these Rules—

"the principal Rules" means the Insolvency Rules (Northern Ireland) 1991(**c**) and a rule referred to by number means the rule so numbered in the principal Rules.

Application

3. The principal Rules shall have effect subject to the amendments set out in the Schedule.

Dated 26th January 1994. *Mackay of Clashfern,* C.

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

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

(**b**) 1970 c. 25 (N.I.) sub-section (3) was added to section 19 by S.I. 1989/2405 (N.I. 19) Article 381 and Schedule 9 paragraph 79

(**c**) S.R. 1991 No. 364

Sealed with the Official Seal of the Department of Economic Development on 27th January 1994.

(L.S.) *A. L. Brown*
Assistant Secretary

The Department of the Environment for Northern Ireland hereby concurs with the foregoing Rules.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 27th January 1994.

(L.S.) *Trevor Pearson*
Assistant Secretary

Amendments to the principal Rules

Rule 1.24

1. There shall be substituted for paragraph (5) of Rule 1.24 the following paragraphs—

"(4A) The chairman shall also send notice of the result of the meetings to the Enforcement of Judgments Office and where each of the meetings has approved the proposal a list of the persons bound by the arrangement shall accompany such notice.

(5) The notice under paragraphs (4) and (4A) shall be sent immediately after a copy of the chairman's report is filed in court under paragraph (3).".

Rule 4.007

2. There shall be substituted for paragraphs (4) to (6) of Rule 4.007 the following paragraphs—

"(4) There shall in any case be delivered with the petition—

(*a*) one copy of the petition to be sent to the Enforcement of Judgments Office;

(*b*) if the company is in the course of being wound up voluntarily, and a liquidator has been appointed, one copy to be sent to him;

(*c*) if an administration order is in force in relation to the company, one copy to be sent to the administrator;

(*d*) if an administrative receiver has been appointed in relation to the company, one copy to be sent to him;

(*e*) if there is in force for the company a voluntary arrangement under Part II of the Order, one copy for the supervisor of the arrangement; and

(*f*) if the company is an authorised institution or former authorised institution within the meaning of the Banking Act 1987(**a**) and the petitioner is not the Bank of England, one copy to be sent to the Bank.

(5) Each of the copies delivered shall have applied to it the seal of the court, and, except the copy mentioned in paragraph (4)(*a*) shall be issued to the petitioner.

(6) The court shall fix a venue for the hearing of the petition; and this shall be endorsed on any copy issued to the petitioner under paragraph (5) and on the copy mentioned in paragraph (4)(*a*).".

Rule 4.011

3. There shall be substituted for paragraph (1) of Rule 4.011 the following paragraph—

"(1) When the petition is filed, the court shall forthwith give notice of its presentation to the Enforcement of Judgments Office by sending to that Office the copy petition mentioned in Rule 4.007(4)(*a*).".

Rule 4.015

4. There shall be substituted for paragraphs (2) and (3) of Rule 4.015 the following paragraphs—

(**a**) 1987 c. 22

"(2) If the petition is dismissed or withdrawn, the court shall give notice thereof to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order made by the court in that behalf.

(3) Where an administration order is made whilst a winding-up petition is pending, the court shall give notice of the dismissal of the petition pursuant to Article 24(1) to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order made by the court in that behalf.".

Rule 5.06

5. In sub-paragraph (*d*) of Rule 5.06(1), the word "and" shall be deleted.

6. There shall be substituted for sub-paragraph (*e*) of Rule 5.06(1) the following sub-paragraphs—

"(*e*) that the nominee under the proposal (naming him) is a person who is qualified to act as an insolvency practitioner in relation to the debtor, and is willing to act in relation to the proposal; and

(*f*) where the applicant has authorised his solicitor to accept service of documents on his behalf, the name and address for service on that solicitor.".

Rules 5.08 to 5.10

7. There shall be substituted for Rules 5.08 to 5.10 the following Rules—

"*Action to follow making of order*

5.08.—(1) Where an interim order is made, the court shall forthwith—

[FORM 5.2]

(*a*) send at least 2 sealed copies of the order to the person who applied for it; and that person shall serve one of the copies on the nominee under the debtor's proposal, and

(*b*) give to the Enforcement of Judgments Office notice of the making of the order and of the date the interim order ceases to have effect by sending to that Office a sealed copy of the order.

(2) The applicant shall also forthwith give notice of the making of the order to any person who was given notice of the hearing pursuant to Rule 5.06(4) and was not present or represented at it.

[*E.r. 5.7*]

Extension of operation of interim order

5.09. If an order is made extending the period for which an interim order has effect, the court shall give to the Enforcement of Judgments Office notice of the making of the order and of the date to which the operation of the interim order has been extended by sending to that Office a sealed copy of the order.

[FORM 5.3]

Discharge of interim order

5.10. If an order is made discharging an interim order, the court shall give notice of the making of the order to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order.".

Rule 5.25

8. There shall be substituted for paragraph (3) of Rule 5.25 the following paragraph—

"(3) A copy of the chairman's report and, in the case of a proposal approved with modifications, a copy of the modified proposal approved by the meeting shall, within 4 days of the meeting being held, be filed in court; and the court shall cause those copies to be endorsed with the date of filing.".

9. In Rule 5.25, after paragraph (4), there shall be inserted the following paragraph—

"(4A) The chairman shall also send notice of the result of the meeting to the Enforcement of Judgments Office and where the meeting has approved the proposal a list of the persons bound by the arrangement shall accompany such notice.".

Rule 6.004

10. In Rule 6.004, after paragraph (4), there shall be added the following paragraph—

"(5) There shall be delivered with the application 4 copies thereof. Each of the copies delivered shall have applied to it the seal of the court and shall be issued to the debtor; and if the court shall fix a venue for the hearing of the application under Rule 6.005(2), this shall be endorsed on any copy so issued.".

Rule 6.005

11. There shall be substituted for paragraph (2) of Rule 6.005 the following paragraph—

"(2) If the application is not dismissed under paragraph (1), the court shall fix a venue for it to be heard, and the debtor shall give at least 7 days' notice of it by sending a sealed copy of the application endorsed in accordance with Rule 6.004(5) to—

(*a*) the creditor, and

(*b*) whoever is named in the statutory demand as the person with whom the debtor may enter into communication with reference to the demand (or, if more than one person is so named, the first of them).".

Rule 6.009

12. There shall be substituted for paragraphs (2) to (6) of Rule 6.009 the following paragraphs—

"(1A) With the petition there shall be delivered to the court 2 copies of the document referred to in regulation 3 of the Insolvency (Registration of Deeds) Regulations (Northern Ireland) 1991(**a**) one of which shall be prepared on paper having the specifications and characteristics prescribed for use for the purpose of a memorial of a deed or conveyance to be registered at the Registry of Deeds under the Registration of Deeds Act (Northern Ireland) 1970(**b**) and shall bear the name and address of the solicitor or party presenting it and both of which shall be endorsed with the following form of certificate:

"The High Court hereby certifies that the above information is correct.
Master (Bankruptcy)
Date: ".

(2) No petition shall be filed unless there is produced with it the receipt for the deposit payable on presentation.

(**a**) S.R. 1991 No. 382
(**b**) 1970 c. 25

(3) The following copies of the petition shall also be delivered to the court with the petition—

(*a*) one for service on the debtor,

(*b*) one to be exhibited to the affidavit verifying that service,

(*c*) one to be sent to the Enforcement of Judgments Office,

(*d*) if there is in force for the debtor a voluntary arrangement and the petitioner is not the supervisor of the arrangement, one copy for him, and

(*e*) where the petition is against a solicitor, one to be sent to the Law Society of Northern Ireland.

(4) Each copy delivered to the court under paragraph (3) shall have applied to it the seal of the court, and, except the copies mentioned in paragraph (3)(*c*) and (*e*), shall be issued to the petitioner.

(5) The date and time of filing the petition shall be endorsed on the petition and on each of the copies delivered to the court under paragraph (3).

(6) The court shall fix a venue for hearing the petition, and this also shall be endorsed on the petition and on any copy so delivered.".

Rule 6.012

13. There shall be substituted for paragraph (1) of Rule 6.012 the following paragraph—

"(1) When the petition is filed, the court shall forthwith—

(*a*) give notice of its presentation to the Enforcement of Judgments Office by sending to that Office the copy petition mentioned in Rule 6.009(3)(*c*),

(*b*) register the petition in the Registry of Deeds in accordance with section 3A(1) of the Registration of Deeds Act (Northern Ireland) 1970(**a**), and

(*c*) where the petition is against a solicitor, give notice of its presentation to the Law Society of Northern Ireland by sending to the Society the copy petition mentioned in Rule 6.009(3)(*e*).".

Rule 6.024

14. There shall be substituted for paragraph (2) of Rule 6.024 the following paragraph—

"(2) If the petition is dismissed or withdrawn, or if proceedings on it are stayed, the court shall give notice thereof to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order made by the court in that behalf.".

15. There shall be substituted for sub-paragraph (*c*) of Rule 6.024(3) the following sub-paragraph—

"(*c*) give notice of the dismissal of the petition to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order.".

Rule 6.038

16. There shall be substituted for Rule 6.038 the following Rule—

(**a**) 1970 c. 25 (N.I.), section 3A was inserted by S.I. 1989/2405 (N.I. 19) Article 381 and Schedule 9 paragraph 77

"*Procedure for presentation and filing*

6.038.—(1) The petition and the statement of affairs shall be filed in court, together with 2 copies of the statement.

(2) No petition shall be filed unless there is produced with it the receipt for the deposit payable on presentation.

(3) The following copies of the petition shall be delivered to the court with the petition—

(*a*) one to be returned to the petitioner;

(*b*) one to be sent to the Enforcement of Judgments Office;

(*c*) one to be sent to the official receiver;

(*d*) where the petition is against a solicitor, one to be sent to the Law Society of Northern Ireland; and

(*e*) the remaining copy to be retained by the court, to be sent to an insolvency practitioner if appointed under Article 247(2).

(4) Each copy of the petition delivered to the court under paragraph (3) shall have applied to it the seal of the court.

(5) Subject to paragraph (6), the court may hear the petition forthwith. If it does not do so, it shall fix a venue for the hearing.

(6) If the petition contains particulars of a voluntary arrangement in force for the debtor, the court shall fix a venue for the hearing and give at least 14 days' notice of it to the supervisor of the voluntary arrangement; the supervisor may appear and be heard on the petition.

(7) Any venue fixed shall be endorsed on each of the copies of the petition delivered to the court under paragraph (3), except the copy mentioned in paragraph (3)(*e*).

(8) Of the 2 copies of the statement of affairs—

(*a*) one shall be sent by the court to the official receiver; and

(*b*) the other shall be retained by the court to be sent to the insolvency practitioner (if appointed).

(9) The affidavit verifying the debtor's statement of affairs may be sworn before an officer of the court duly authorised in that behalf.

(10) Where the court hears a petition forthwith, or it will in the opinion of the court otherwise expedite the delivery of any document to the official receiver, the court may, instead of sending that document to the official receiver, direct the bankrupt forthwith to deliver it to him.

(11) Where a petition contains a request for the appointment of a person as trustee in accordance with Article 270(4) (appointment of former supervisor as trustee) the person whose appointment is sought shall, not less than 2 days before the day appointed for hearing the petition, file in court a report including particulars of—

(*a*) a date on which he gave written notification to creditors bound by the voluntary arrangement of the intention to seek his appointment as trustee, such date to be at least 10 days before the day on which the report under this paragraph is filed, and

(*b*) details of any response from creditors to that notice, including any objections to his appointment.

(12) With the petition there shall be delivered to the court 2 copies of the document referred to in regulation 3 of the Insolvency (Registration of Deeds)

Regulations (Northern Ireland) 1991 one of which shall be prepared on paper having the specifications and characteristics prescribed for use for the purpose of a memorial of a deed or conveyance to be registered at the Registry of Deeds under the Registration of Deeds Act (Northern Ireland) 1970 and shall bear the name and address of the solicitor or party presenting it and both of which shall be endorsed with the following form of certificate:

"The High Court hereby certifies that the above information is correct.
Master (Bankruptcy)
Date: ".

[*E.r. 6.42*]".

Rule 6.039

17. There shall be substituted for paragraph (1) of Rule 6.039 the following paragraph—

"(1) When the petition is filed, the court shall forthwith—

(*a*) send to the official receiver the copy petition mentioned in Rule 6.038 (3)(*c*), and

(*b*) give notice of the presentation of the petition to the Enforcement of Judgments Office by sending to that Office the copy petition mentioned in Rule 6.038 (3)(*b*), and

(*c*) register the petition in the Registry of Deeds in accordance with section 3A(1) of the Registration of Deeds Act (Northern Ireland) 1970, and

(*d*) where the petition is against a solicitor, give notice of its presentation to the Law Society of Northern Ireland by sending to the Society the copy petition mentioned in Rule 6.038 (3)(*d*).".

Rule 6.040

18. There shall be substituted for paragraph (2) of Rule 6.040 the following paragraph—

"(2) If the petition is dismissed or withdrawn, or if proceedings on it are stayed, the court shall give notice thereof to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order made by the court in that behalf.".

19. There shall be substituted for sub-paragraph (*c*) of Rule 6.040(3) the following sub-paragraph—

"(*c*) give notice of the dismissal of the petition to the Enforcement of Judgments Office by sending to that Office a sealed copy of the order.".

Rule 6.200

20. In paragraph (4) of Rule 6.200, the words "not less than" shall be deleted.

Rule 7.03

21. In Rule 7.03, after paragraph (5), there shall be inserted the following paragraph—

"(5A) The Master may authorise any act of a formal or administrative character which is not by statute his responsibility to be carried out by the Principal Clerk or any other officer of the court acting on his behalf in accordance with directions given by the Chancery Judge.

[*E.r. 13.2(2)*].".

Rule 12.03

22. In sub-paragraph (*a*) of Rule 12.03(2) there shall be added after the word ''proceedings'' the words ''or under a maintenance assessment made under the Child Support (Northern Ireland) Order 1991''(**a**).

(**a**) S.I. 1991/2628 (N.I. 23)

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Insolvency Rules (Northern Ireland) 1991 [S.R. 1991 No. 364], which set out the detailed procedures for the conduct of all company and individual insolvency proceedings under the Insolvency (Northern Ireland) Order 1989; to—

(*a*) provide that the chairman of meetings of the company and of its creditors in company voluntary arrangement proceedings shall send notice of the result of the meeting to the Enforcement of Judgments Office and where each meeting has approved the proposal a list of the persons bound by the arrangement shall accompany such notice (Schedule, paragraph 1);

(*b*) make similar provisions for reporting the result of the meeting of creditors in an individual voluntary arrangement to the Enforcement of Judgments Office (Schedule, paragraph 9);

(*c*) alter the method by which the court gives notice of certain proceedings (Schedule, paragraphs 3, 4, 7, 13, 14, 15, 17, 18 and 19);

(*d*) transfer the obligation to prepare and supply certain documents from the court to the party having carriage of proceedings (Schedule, paragraphs 2, 12 and 16);

(*e*) require the debtor, instead of the court, to notify the other parties of the hearing to set aside a statutory demand. (Schedule, paragraphs 10 and 11);

(*f*) provide that the affidavit to accompany an application to the court for an interim order in individual voluntary arrangement proceedings shall give the name and address for service of documents on the applicant's solicitor, where the applicant has authorised the solicitor to accept service of documents on his behalf (Schedule, paragraph 6);

(*g*) provide that an up to date copy of the proposal for an individual voluntary arrangement, incorporating any modifications approved at the meeting of creditors, shall be placed on file with the chairman's report (Schedule, paragraph 8);

(*h*) provide for the Master to authorise the Principal Clerk, or other officer of the court acting on his behalf, to carry out acts of a formal or administrative character where those acts are not by statute the responsibility of the Master (Schedule, paragraph 21); and

(*i*) to include within those obligations which are not provable in bankruptcy proceedings a maintenance assessment made under the Child Support (Northern Ireland) Order 1991 [S.I. 1991/2628 (N.I. 23)] as a consequence of its amending Article 255 of the Insolvency (Northern Ireland) Order 1989 (Schedule, paragraph 22).

The Rules will come into operation on 1st March 1994.