
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PARTS II TO VI COMPANY INSOLVENCY; COMPANIES WINDING UP

PART V

WINDING UP OF COMPANIES REGISTERED
UNDER THE COMPANIES ORDERS

CHAPTER III

MEMBERS' VOLUNTARY WINDING UP

Appointment of liquidator

77.—(1) In a members' voluntary winding up, the company in general meeting shall appoint one or more liquidators for the purpose of winding up the company's affairs and distributing its assets.

(2) On the appointment of a liquidator all the powers of the directors cease, except so far as the company in general meeting or the liquidator sanctions their continuance.

Power to fill vacancy in office of liquidator

78.—(1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in the manner provided by this Order or by the company's articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the High Court.

General company meeting at each year's end

79.—(1) Subject to Articles 82 and 88, in the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Department may allow.

(2) The liquidator shall lay before the meeting an account of his acts and dealings, and of the conduct of the winding up, during the preceding year.

(3) If the liquidator contravenes this Article, he shall be guilty of an offence.

Final meeting prior to dissolution

80.—(1) As soon as the company's affairs are fully wound up, the liquidator shall make up an account of the winding up, showing how it has been conducted and the company's property has been

disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving an explanation of it.

(2) The meeting shall be called by advertisement in the Belfast Gazette, specifying its time, place and object and published at least one month before the meeting.

(3) Within one week from the meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date.

(4) If the copy is not sent or the return is not made in accordance with paragraph (3), the liquidator shall be guilty of an offence and, for continued contravention, shall be guilty of a continuing offence.

(5) If a quorum is not present at the meeting, the liquidator shall, in lieu of the return mentioned in paragraph (3), make a return that the meeting was duly summoned and that no quorum was present; and upon such a return being made, the provisions of paragraph (3) as to the making of the return are deemed complied with.

(6) If the liquidator fails to call a general meeting of the company as required by paragraph (1), he shall be guilty of an offence.

Effect of company's insolvency

81.—(1) This Article applies where the liquidator is of the opinion that the company will be unable to pay its debts in full (together with interest at the official rate) within the period stated in the directors' declaration under Article 75.

(2) The liquidator shall—

- (a) summon a meeting of creditors not later than 28 days from the day on which he formed that opinion;
- (b) not less than 7 days before the day on which the creditors' meeting is to be held—
 - (i) send notices of that meeting to the creditors by post; and
 - (ii) cause notice of that meeting to be advertised once in the Belfast Gazette and once at least in 2 newspapers circulating in each district in which the company's principal place of business in the United Kingdom was situated during the relevant period; and
- (c) during the period before the day on which the creditors' meeting is to be held, furnish creditors free of charge with such information concerning the affairs of the company as they may reasonably require;

and the notice of the creditors' meeting shall state the duty imposed by sub-paragraph (c).

(3) The liquidator shall also—

- (a) make out a statement in the prescribed form as to the affairs of the company;
- (b) lay that statement before the creditors' meeting; and
- (c) attend and preside at that meeting.

(4) The statement as to the affairs of the company shall be verified by affidavit by the liquidator and shall show—

- (a) particulars of the company's assets, debts and liabilities;
- (b) the names and addresses of the company's creditors;
- (c) the securities held by them respectively;
- (d) the dates when the securities were respectively given; and
- (e) such further or other information as may be prescribed.

(5) Where the company had no place of business in the United Kingdom during the relevant period, the reference in paragraph (2)(b)(ii) to the company's principal place of business in the United Kingdom is replaced by a reference to its registered office.

(6) In this Article "the relevant period" means the period of 6 months immediately preceding the day on which were sent the notices summoning the company meeting at which it was resolved that the company be wound up voluntarily.

(7) If the liquidator without reasonable excuse contravenes this Article, he shall be guilty of an offence.

Conversion to creditors' voluntary winding up

82. As from the day on which the creditors' meeting is held under Article 81, this Order has effect as if—

- (a) the directors' declaration under Article 75 had not been made; and
- (b) the creditors' meeting and the company meeting at which it was resolved that the company be wound up voluntarily were the meetings mentioned in Article 84;

and accordingly the winding up becomes a creditors' voluntary winding up.