

1985 No. 166

COMPANIES

Companies (Winding-up) (Amendment) Rules (Northern Ireland) 1985

<i>Made</i>	<i>19th June 1985</i>
<i>Coming into operation</i>	<i>22nd July 1985</i>
<i>To be laid before Parliament</i>	

The Lord Chancellor, in exercise of the powers conferred on him by section 317(1) and (2) of the Companies Act (Northern Ireland) 1960(a), with the concurrence of the Department of Economic Development(b) and after consultation with the Committee appointed under sub-section (3) of the said section, hereby makes the following Rules:—

Citation and commencement

1. These rules may be cited as the Companies (Winding-up) (Amendment) Rules (Northern Ireland) 1985 and shall come into operation on 22nd July 1985.

Interpretation

2. In these rules a reference to a Rule, Appendix or Form is a reference to that Rule, Appendix or Form as numbered in the Companies (Winding-up) Rules (Northern Ireland) 1984(c).

Amendment of the Companies (Winding-up) Rules (Northern Ireland) 1984

3.—(1) The Arrangement of Rules shall be amended by inserting, below the reference to Rule 181, the following reference:—

“Administration of oaths by Official Assignee 181A”.

(2) Rule 7 shall be amended at paragraph (2) by inserting, after the word “thereon”, the words “or an order dismissing the petition”.

(3) Rule 32 shall be amended, at paragraph (1)(c), by renumbering sub-sub-paragraphs (a) and (b) as (i) and (ii) respectively.

(4) Rule 51 shall be amended at paragraph (1) by inserting, below sub-paragraph (a), the following new sub-paragraph:—

“(aa) section 288;”.

(5) Rule 138 shall be amended by deleting the words “an Official Assignee” and substituting the words “the Official Assignee”.

(6) Rule 143 shall be amended by substituting for the expression “the Rules”, where it twice appears, the expression “these Rules”.

(7) Rule 156 shall be amended as follows—

(a) in paragraph (1), by inserting, after the word “release”, the words “or until the company has been dissolved”;

(b) in paragraph (3), by inserting, before the word “position”, the words “proceedings in and”.

(a) 1960 c. 22 (N.I.) as substituted by S.I. 1978/1042 (N.I. 12) Art. 96(1)

(b) Consent function transferred from the Department of Commerce by S.I. 1982/846 (N.I. 11) Art. 4

(c) S.R. 1984 No. 163

(8) Rule 159 shall be amended as follows—

(a) by deleting, in paragraph (1), the word “printed”;

(b) by deleting, in paragraph (2), the word “printed” and substituting the word “preparing”;

(9) Rule 160 shall be amended as follows—

(a) by inserting in the heading, following the word “payments”, the reference “(Form 82A)”;

(b) by inserting, after the words “receipts or payments”, the words “to which there shall be attached a report in the prescribed form upon the proceedings in and position of the liquidation of the company”;

(10) Rule 175 shall be amended at paragraph (1) by deleting in the sub-paragraph beginning with the word “First” the word “taxed” where it twice appears.

(11) After Rule 181 there shall be inserted the following new rule:—

“Administration of oaths by Official Assignee

181A. The Official Assignee may administer oaths for the purpose of affidavits in any proceedings in a winding up by the Court.”

(12) Rule 187 shall be amended by deleting, in paragraph (1), the words “any winding-up proceedings” and substituting the words “any proceedings in a winding up by the Court, other than the advertisement of the winding-up petition”.

(13) In the Appendix the index of forms shall be amended as follows—

(a) by deleting the entry relating to Form No. 80 and substituting the following new entry:—

“80. Liquidator’s Account and Report in a Winding Up by the Court”;

(b) by inserting, below the entry relating to Form No. 82, the following new entry:—

“82A. Liquidator’s Certificate of No Receipts or Payments and Report in a Winding Up by the Court”.

(14) Form No. 3 shall be amended by deleting Note [1] and substituting the following new Note:—

“[1] Where a petition under Article 77 of the Companies (Northern Ireland) Order 1981 does not include a prayer for winding up, the words “(COMPANIES WINDING UP)” must be omitted.”

(15) Form No. 6 shall be amended by inserting after “19 ”, where it second appears in the first paragraph, the words “at am/pm”.

(16) Form No. 80 shall be amended by deleting the first page and substituting the form in the Schedule to these Rules.

(17) There shall be inserted, following Form No. 82, the new form No. 82A in the Schedule to these Rules.

Dated 19th June 1985.

Hailsham of St. Marylebone, C.

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

Sealed with the Official Seal of the Department of Economic Development on 2nd July 1985.

(L.S.)

William Thomas McCrory
Assistant Secretary

Liquidator's Account and Report in a Winding Up by the Court*(Title)*

I, G.H., of _____, the liquidator of the above-named company, do solemnly and sincerely declare [or I, G.H., Official Assignee and liquidator of the above-named company hereby certify as follows]:—

1. The account hereunto annexed marked "B" contains a full and true account of my receipts and payments in the winding up of the above-named company from 19____, to 19____, inclusive and I have not, nor has any other person by my order or for my use, during such period received or paid any moneys on account of the said company other than and except the items mentioned and specified in the said account.

2. The report so annexed, with respect to the proceedings in and position of the liquidation of the said company, is true to the best of my knowledge and belief.

[And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declaration Act 1835.]

(Signature of liquidator)

Declared at _____
on _____ 19____,
before me
*(Signature of Commissioner for Oaths or
other person authorised to take affidavits)*

[or

19____
(Signed)
Official Assignee and liquidator].

NOTES

1. Where there have been no receipts or payments a certificate in Form No. 82A should be used instead of this Form.
2. A liquidator other than the Official Assignee is required to verify his account by statutory declaration. The words in square brackets relating to a certificate should be deleted except where the account is submitted by the Official Assignee.
3. The account and report must be furnished in triplicate, one copy being verified.

No. 82A

Rule 160

Liquidator's Certificate of No Receipts or Payments and Report in a Winding Up by the Court

I, G.H., of _____, the liquidator of the above-named company, hereby certify as follows:

1. From 19____, to 19____, I have not, nor has any other person by my order or for my use, during such period received or paid any moneys on account of the said company.

2. The report hereunto annexed marked "B", with respect to the proceedings in and position of the liquidation of the said company, is true to the best of my knowledge and belief.

Dated

19

(Signed)

Liquidator

This is the Exhibit marked "B"
referred to in the certificate of
dated
19

(Signed)

Liquidator

LIQUIDATOR'S REPORT

- | | |
|---|---|
| (1) The amount of the estimated assets and liabilities at the date of the commencement of the winding up. | (Assets (after deducting amounts charged to secured creditors and debenture holders) £ |
| | ((Secured creditors £ |
| | (Liabilities (Debenture holders £ |
| | ((Unsecured creditors £ |
-
- | | |
|--|---------------------------|
| (2) The total amount of the capital paid up at the date of commencement of the winding up. | (Paid up in cash £ |
| | (Issued as paid up |
| | (otherwise than |
| | (for cash £ |
-
- | | |
|---|---|
| (3) The general description and estimated value of outstanding assets (if any). |) |
| |) |
-
- | | |
|---|---|
| (4) The causes which delay the termination of the winding up. |) |
| |) |
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- | | |
|---|---|
| (5) The period within which the winding up may probably be completed. |) |
| |) |
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EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Companies (Winding-up) Rules (Northern Ireland) 1984 so as:

- (a) to make clear that the Master (Bankruptcy) has power to dismiss a petition for the winding up of a company (Rule 3(2));
- (b) to provide that an application to the Court under Section 288 (Fraudulent preference) of the Companies Act (Northern Ireland) 1960 shall be subject to the procedure prescribed by Rule 51 (Rule 3(4));
- (c) to provide that a liquidator need no longer submit six-monthly accounts under Rule 156 where the company has been dissolved (Rule 3(7)(a));
- (d) to provide that there shall be attached to each account submitted by a liquidator under Rule 156 a report on the proceedings in, and the position of, the liquidation (Rule 3(7)(b));
- (e) to provide that a liquidator's summary of accounts need not be printed (Rule 3(8));
- (f) to provide that a liquidator's certificate of no receipts and payments shall be in new Form No. 82A and shall include a report on the proceedings in, and the position of, the liquidation (Rule 3(9));
- (g) to provide that the assets of a company in a winding up by the Court are liable to the costs of the winding-up petition, whether taxed or allowed by the Court (Rule 3(10));
- (h) to enable the Official Assignee to administer oaths for the purpose of affidavits (Rule 3(11));
- (i) to make clear that the Official Assignee or liquidator is required to file a memorandum of an advertisement only in a winding up by the Court but is not obliged to file a memorandum of the advertisement of a winding-up petition (Rule 3(12));
- (j) to make other minor amendments and to correct drafting errors.