

2002 No. 223

INSOLVENCY

COMPANIES AND INDIVIDUALS

**Insolvency (Northern Ireland) Order 1989 (Amendment)
Regulations (Northern Ireland) 2002**

Made - - - - - *19th June 2002*

Coming into operation *15th July 2002*

The Department of Enterprise, Trade and Investment, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to insolvency, in exercise of the powers conferred upon it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Insolvency (Northern Ireland) Order 1989 (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 15th July 2002.

(2) In these regulations “the Order” means the Insolvency (Northern Ireland) Order 1989(c).

(3) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendments to the Insolvency (Northern Ireland) Order 1989

2. The Order shall be amended as provided in regulations 3 and 4.

Amendments to definitions

3. In Article 2 (general interpretation) after “the Department” insert –
“the EC Regulation” means Council Regulation (EC) No. 1346/2000(e);”.

Amendments to rule-making powers

4.—(1) In paragraph (1) of Article 359 (insolvency rules) after “to this Order” insert –
“or the EC Regulation”.

(2) After paragraph (2) of Article 359 insert –

(a) S.I. 2001/3495
(b) 1972 c. 68
(c) S.I. 1989/2405 (N.I. 19)
(d) 1954 c. 33 (N.I.)
(e) O.J. No. L160, 30.06.00, p. 1

“(2A) For the purposes of paragraph (2), a reference in Schedule 5 or Schedule 6 to doing anything under or for the purposes of a provision of this Order includes a reference to doing anything under or for the purposes of the EC Regulation (in so far as the provision of this Order relates to a matter to which the EC Regulation applies).

(2B) Rules under this Article for the purpose of giving effect to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

(3) After paragraph (1) of Article 364 (insolvent partnerships) insert –

“(1A) An order under this Article may make provision in relation to the EC Regulation.

(1B) Provision made by virtue of this Article in relation to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

(4) After paragraph (1) of Article 365 (insolvent estates of deceased persons) insert –

“(1A) An order under this Article may make provision in relation to the EC Regulation.

(1B) Provision made by virtue of this Article in relation to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 19th June 2002.

(L.S.)

Michael J. Bohill

Senior Officer of the Department of Enterprise, Trade and Investment

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) to extend existing rule-making powers under the Order to allow for making rules which are required as a result of the adoption by the Council of the European Union of Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings, Official Journal No. L160, 30.06.00 p. 1 (the "Regulation") which came into force on 31st May 2002. As a result of making these amendments, rules made under the amended Article 359 of the Insolvency (Northern Ireland) Order, 1989 in relation to the regulation, will, like rules presently made under the Order, need to be reviewed by the Insolvency Rules Advisory Committee. The Insolvency Rules Advisory Committee is consulted by the Lord Chancellor prior to making insolvency rules and consists of the Chancery Judge, the Master (Bankruptcy), and practicing insolvency professionals (specified in Article 360).

The Regulations also amend the powers in the Insolvency (Northern Ireland) Order 1989 to apply insolvency legislation to insolvent partnerships (Article 364) and to the insolvent estates of deceased persons (Article 365) to allow provision to be made in relation to the Regulation.

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