

2003 No. 103

INSOLVENCY

INDIVIDUALS

**The Administration of Insolvent Estates of Deceased Persons
(Amendment) Order (Northern Ireland) 2003**

Made - - - - - 19th February 2003

Coming into operation 1st April 2003

To be laid before Parliament

The Lord Chancellor, in exercise of the powers conferred upon him by Articles 365(1) of the Insolvency (Northern Ireland) Order 1989(a) and of all the powers enabling him in that behalf, with the concurrence of the Department of Enterprise, Trade and Investment(b), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Administration of Insolvent Estates of Deceased Persons (Amendment) Order (Northern Ireland) 2003 and shall come into operation on 1st April 2003.

(2) In this Order, references to “the 1991 Order” are references to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991(c).

Amendments to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991

2.—(1) The 1991 Order is amended as provided in this Order.

(2) Anything done before 1st April 2003 under or for the purposes of any provision of the 1991 Order is not invalidated by the amendment of that provision by this Order, but it has effect as if done under or for the purposes of the provision as amended.

Amendments to Schedules to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991

3.—(1) After paragraph 5(c) of Part II of Schedule 1 to the 1991 Order (who may present a bankruptcy petition) insert –

“(ca) at the end of paragraph 1(ba) there shall be added the words “in Form 1, with such variations as the case requires (if any), set out in Schedule 3 to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991”;

(a) S.I. 1989/2405 (N.I. 19) to which the most recent relevant amendments were made by S.R. 2002 No. 223

(b) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1)

(c) S.R. 1991 No. 365

(cb) at the end of paragraph 1(bb) there shall be added the words “in Form 1, with such variations as the case requires (if any), set out in Schedule 3 to the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991”;

(2) For paragraph 6(a) of Part II of Schedule 1 to the 1991 Order (modified version of Article 240 of the Insolvency (Northern Ireland) Order 1989) substitute –

“(a) for paragraph (1) there shall be substituted the following: –

“(1) An insolvency administration petition shall: –

(a) if a liquidator (within the meaning of Article 2(b) of the EC Regulation (a)) has been appointed in proceedings by virtue of Article 3(1) of the EC Regulation in relation to the deceased debtor, be served on him;

(b) unless the High Court directs otherwise, be served on the personal representative; and

(c) be served on such other persons as the Court may direct.”; and”.

(3) For paragraph 30 of Part II of Schedule 1 to the 1991 Order (modified version of Article 303 of the Insolvency (Northern Ireland) Order 1989) substitute –

“30. Article 303 with the following modifications: –

(a) in paragraph (5) for the words “the bankrupt is entitled to the surplus” there shall be substituted the words “the surplus shall be paid to the personal representative unless the Court otherwise orders”, and

(b) after paragraph (5) there shall be added: –

“(6) Paragraph (5) is subject to Article 35 of the EC Regulation (surplus in secondary proceedings to be transferred to main proceedings).”.

(4) The forms contained in the Schedule to this Order are substituted for the forms identically numbered in Schedule 3 to the 1991 Order.

Dated 19th February 2003.

Irvine of Lairg, C.

The Department of Enterprise, Trade and Investment hereby concurs with the foregoing Order.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 26th February 2003.

(L.S.)

Michael J. Bohill

Senior officer of the Department of Enterprise, Trade and Investment

(a) Council Regulation (EC) 1346/2000, O.J. No. L160, 30.06.00 p.1

SCHEDULE

Article 3

AMENDED FORMS

THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS
ORDER (NORTHERN IRELAND) 1991

FORM 1

CREDITOR'S PETITION FOR INSOLVENCY ADMINISTRATION ORDER

In the High Court of Justice in Northern Ireland Chancery Division (Bankruptcy)

* Insert name and short description, including any recent trading name, of deceased debtor

Re*

(a) Insert full name(s) and address(es) of petitioner(s)

I/We (a) _____

petition the court that an order be made for the administration of the insolvent estate in bankruptcy of the late

(b) Insert full name, and former occupation of deceased debtor

(b) _____

(c) Insert in full any other name(s) by which the deceased debtor was known

[also known as (c) _____]

(d) Insert any address(es) at which the deceased debtor has resided at or after the time the petition debt was incurred

[and lately residing at (d) _____

_____]

(e) Insert trading name (adding "with another or others" if this was so), business address(es) and nature of business(es) carried on by the deceased debtor at or after the time the petition debt was incurred.

[and lately carrying on business as (e) _____
_____]

(f) Insert date of death

who died on (f) _____

and say as follows: –

(g) Delete as applicable

1. (g) The deceased debtor's centre of main interests, being the place where he/she conducted the administration of his/her interests, was located within the United Kingdom, at

OR

The deceased debtor's centre of main interests was located outside the United Kingdom but within the European Union and he/she had an establishment as defined by EC Regulation No. 1346/2000 within Northern Ireland at

OR

The deceased debtor's centre of main interests was located outside the European Union.

OR

The deceased debtor carried on business as an insurance undertaking; a credit institution; investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in art 1.2 of the EC Regulation.

2. (g) The proceedings will be main OR secondary OR territorial proceedings for the purposes of the EC Regulation.

OR

The proceedings do not fall within the EC Regulations.

Under the EC Regulation:

- (i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.
- (ii) Establishment is defined as "any place of operations where the debtor carries out a non-transitory economic activity with human means and goods".

(h) Give the amount of the debt(s), what they relate to and when they were incurred. Show separately the amount or rate of any interest or other charge not previously notified to the deceased debtor and the reasons why you are claiming it.

3. The estate of the deceased debtor is justly and truly indebted to me [us] in the aggregate sum of £(h) _____

(j) State date payable or "immediately" if this is so

4. The above-mentioned debt is for a liquidated sum payable (j) _____ and the estate of the deceased debtor is according to my/our information and belief insufficient to pay his debts.

5. I/We do not, nor does any person on my/our behalf, hold any security on the deceased debtor's estate, or any part thereof, for the payment of the above-mentioned sum.

OR

I/We hold security for the payment of (g) [part of] the above-mentioned sum.

I/We will give up such security for the benefit of all the creditors in the event of an insolvency administration order being made.

OR

I/We hold security for the payment of part of the above-mentioned sum and I/we estimate the value of such security to be £ . This petition is not made in respect of the secured part of my/our debt.

(k) Insert date will proved 6. The will of the deceased debtor was on (k) _____

(l) Insert full names and addresses of parties proving will proved by (l) _____

OR

(m) Insert date letters of administration granted The letters of administration of his estate were on (m) _____

(n) Insert full names and addresses of parties letters of administration granted to Granted to (n) _____

Endorsement

This petition having been presented to the High Court on _____
_____ and filed on _____ at _____
_____ am/pm it is ordered that the petition shall be
heard as follows: –

Date _____

Time _____ Hours

Place _____

and you, (o) _____

are to take notice that if you intend to oppose the petition you must not later than
7 days before the date fixed for the hearing:

(i) file in the High Court a notice specifying the grounds on which you object
to the making of an insolvency administration order; and

(ii) send a copy of the notice to the petitioner or his solicitor.

The solicitor to the petitioning creditor is–(p)

Name _____

Address _____

Telephone Number _____

Fax Number (if any)

Reference _____

(o) Insert full names and
addresses of parties
given notice

(p) Only to be completed
where the petitioning
creditor is
represented by a
solicitor

THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS ORDER
(NORTHERN IRELAND) 1991

FORM 2

PETITION FOR INSOLVENCY ADMINISTRATION ORDER BY SUPERVISOR OF
VOLUNTARY ARRANGEMENT OR PERSON BOUND BY IT

In the High Court of Justice in Northern Ireland Chancery Division (Bankruptcy)

* Insert name and short description, including any recent trading name, of deceased debtor

Re*

(a) Insert full name(s) and address(es) of petitioner(s)

I/We (a) _____

petition the court that an order be made for the administration of the insolvent estate in bankruptcy of the late

(b) Insert full name, and former occupation of deceased debtor

(b) _____

(c) Insert in full any other name(s) by which the deceased debtor was known

[also known as (c) _____]

(d) Insert any address(es) at which the deceased debtor has resided at or after the time the petition debt was incurred

[and lately residing at (d) _____

_____]

(e) Insert trading name (adding "with another or others" if this was so), business address(es) and nature of business(es) carried on by the deceased debtor at or after the time the petition debt was incurred.

[and lately carrying on business as (e) _____
_____]

and say as follows: –

(f) Delete as applicable

1. (f) The deceased debtor's centre of main interests, being the place where he/she conducted the administration of his/her interests, was located within the United Kingdom, at

OR

The deceased debtor's centre of main interests was located outside the United Kingdom but within the European Union and he/she had an establishment as defined by EC Regulation No. 1346/2000 within Northern Ireland at

OR

The deceased debtor's centre of main interests was located outside the European Union.

OR

The deceased debtor carried on business as an insurance undertaking; a credit institution; investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1(2) of the EC Regulation.

2. (f) The proceedings will be main OR secondary OR territorial proceedings for the purposes of the EC Regulation.

OR

The proceedings do not fall within the EC Regulations.

Under the EC Regulation:

- (i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.
- (ii) Establishment is defined as "any place of operations where the debtor carries out a non-transitory economic activity with human means and goods".

(g) Insert date the deceased entered into voluntary arrangement

3. On (g) _____ a voluntary arrangement proposed by the deceased debtor was approved by his creditors and I am (f) [a person who is for the time being bound by the said voluntary arrangement and (h) _____ is the supervisor] (h) _____ the supervisor of the said voluntary arrangement].

(h) Insert name of supervisor

(j) Insert date of death

4. The deceased debtor died on (j) _____

(k) Insert date will proved

5. The will of the deceased debtor was on (k) _____

(l) Insert full names and addresses of parties proving will

proved by (l) _____

OR

(m) Insert date letters of administration granted

The letters of administration of his estate were on (m) _____

(n) Insert full names and addresses of parties letters of administration granted to

granted to (n) _____

6. The estate of the deceased debtor is according to my/our information and belief insufficient to pay his debts.

Endorsement

This petition having been presented to the High Court on _____
_____ and filed on _____ at
_____ am/pm it is ordered that the petition shall be
heard as follows: –

Date _____

Time _____ Hours

Place _____

(o) Insert full names and
addresses of parties
given notice

and you, (o) _____

are to take notice that if you intend to oppose the petition you must not later than
7 days before the date fixed for the hearing:

(i) file in the High Court a notice specifying the grounds on which you object
to the making of an insolvency administration order; and

(ii) send a copy of the notice to the petitioner or his solicitor.

(p) Only to be completed
where the petitioning
creditor is
represented by a
solicitor

The solicitor to the petitioning creditor is: –(p)

Name _____

Address _____

Telephone Number _____

Fax Number (if any) _____

Reference _____

THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS ORDER
(NORTHERN IRELAND) 1991

FORM 3

INSOLVENCY ADMINISTRATION ORDER

In the High Court of Justice in Northern Ireland Chancery Division (Bankruptcy)

(TITLE)

- (a) Insert full name of petitioner Upon the petition of (a) _____
- (b) Insert date of petition Date(b) _____
- And upon hearing _____
- And upon reading the evidence _____
- _____
- (c) Insert full name of deceased debtor It is ordered that the estate of (c) _____
- (d) Insert residential address of deceased debtor at date of death Formerly of (d) _____
- _____
- (e) Terms of any order as to payment of costs of application who died insolvent, be administered in bankruptcy and that the costs of this application be (e)
- (f) Delete as applicable And the Court being satisfied that the EC Regulation (f) does/does not apply(f) and
- (g) Insert whether main, secondary or territorial proceedings it is ordered that these proceedings are (g) _____ proceedings as defined in Article 3 of the EC Regulation

THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS ORDER
(NORTHERN IRELAND) 1991

FORM 4

INSOLVENCY ADMINISTRATION ORDER ON TRANSFER OF PROCEEDINGS

In the High Court of Justice in Northern Ireland Chancery Division (Bankruptcy)

* Insert name and short description, including any recent trading name, of deceased debtor

Re*

(a) Insert full name of deceased debtor

Proceedings for the administration of the estate of the late (a)

having been commenced in

(b) Insert name of court in which proceedings commenced

(b) _____ Court

on (c) _____

(c) Insert date

And whereas the Court did on (c) _____
Transfer such proceedings to this Court.

It is ordered that the estate of (a) _____
who died insolvent, be administered in bankruptcy.

(d) Delete as applicable

And the Court being satisfied on that the EC Regulation (d) does/does not apply (d)and

(e) Insert whether main, secondary or territorial proceedings

it is ordered that these proceedings are (e) _____
proceedings as defined in Article 3 of the EC Regulation

THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS ORDER
(NORTHERN IRELAND) 1991

FORM 5

PETITION BY PERSONAL REPRESENTATIVE FOR INSOLVENCY ADMINISTRATION ORDER

In the High Court of Justice in Northern Ireland Chancery Division (Bankruptcy)

* Insert name and short description, including any recent trading name, of deceased debtor Re*

(a) Insert full name(s) and address(es) of petitioner(s) I/We
(a) _____

petition the court that an order be made for the administration of the insolvent estate in bankruptcy of the late

(b) Insert full name, and former occupation of deceased debtor (b) _____

(c) Insert in full any other name(s) by which the deceased debtor was known [also known as (c) _____]

(d) Insert any address(es) at which the deceased debtor has resided at or after the time the petition debt was incurred [and lately residing at (d) _____]

(e) Insert trading name (adding "with another or others" if this was so), business address(es) and nature of business(es) carried on by the deceased debtor at or after the time the petition debt was incurred [and lately carrying on business as (e) _____]

(f) Insert date of death who died on (f) _____
and say as follows: –

(g) Delete as applicable 1. (g) I am/We are the personal representative(s) of the deceased debtor and his will was on

(h) Insert date will proved (h) _____

(j) Insert full names and addresses of parties proving will proved by (j) _____
OR

(k) Insert date letters of administration granted The letters of administration of his estate were on (k) _____

(l) Insert full names and addresses of parties letters of administration granted to granted to (l) _____

2. (g) The deceased debtor's centre of main interests, being the place where he/she conducted the administration of his/her interests, was located within the United Kingdom, at

OR

The deceased debtor's centre of main interests was located outside the United Kingdom but within the European Union and he/she had an establishment as defined by EC Regulation No. 1346/2000 within Northern Ireland at

OR

The deceased debtor's centre of main interests was located outside the European Union.

OR

The deceased debtor carried on business as an insurance undertaking; a credit institution; investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in Article 1(2) of the EC Regulation.

3. (f) The proceedings will be main OR secondary OR territorial for the purposes of the EC Regulation.

OR

The proceedings do not fall within the EC Regulation.

Under the EC Regulation:

- (i) The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis.
- (ii) Establishment is defined as "any place of operations where the debtor carries out a non-transitory economic activity with human means and goods".

4. The estate of the deceased debtor is according to my/our information and belief insufficient to pay his debts.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Administration of Insolvent Estates of Deceased Persons Order (Northern Ireland) 1991 (S.R. 1991 No. 365) (“the 1991 Order”) in the light of Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings Official Journal No. L160, 30.06.00. p. 1 (“the EC Regulation”) which came into force on 31st May 2002.

The EC Regulation aims to provide for the efficient and effective functioning of cross-border insolvency proceedings in the European Union.

The amendments made by this Order are –

- to specify which form a liquidator (within the meaning of Article 2(b) of the EC Regulation) appointed in proceedings by virtue of Article 3(1) of the EC Regulation or a temporary administrator (within the meaning of Article 38 of the EC Regulation) must use to petition for an insolvency administration order (“temporary administrator” and “main proceedings” are defined in the EC Regulation);
- to require that, where such a liquidator has been appointed, a petition will need to be served on him;
- to provide expressly that modified Article 303 of the Insolvency (Northern Ireland) Order 1989 is subject to Article 35 of the EC Regulation;
- to substitute the forms in the 1991 Order with forms which require consideration of whether the EC Regulation applies to the proceedings in question.

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