

## SCHEDULE

### PART 7

#### Northern Ireland

##### **Amendments to the Insolvency (Northern Ireland) Order 1989**

**96.**—(1) The Insolvency (Northern Ireland) Order 1989<sup>(1)</sup> is amended as follows.

(2) In Article 2(2) (general interpretation)<sup>(2)</sup>—

(a) for ““the EC Regulation” means Council Regulation (EC) No 1346/2000;” substitute ““the EU Regulation” means Regulation (EU) 2015/848 of the European Parliament and of the Council;”; and

(b) in the appropriate places insert—

““EU insolvency proceedings” means insolvency proceedings as defined Article 2(4) of the EU Regulation;” and

““member State liquidator” means a person falling within the definition of “insolvency practitioner” in Article 2(3) of the EU Regulation appointed in respect of corporate insolvency proceedings listed in Annex A to the EU Regulation;”.

(3) In Article 2A (proceedings under EC Regulation: modified definition of property)<sup>(3)</sup> and in the heading to that Article for “EC Regulation” substitute “EU Regulation”.

**97.** In Article 3 (meaning of “act as insolvency practitioner”)<sup>(4)</sup> in paragraph (6) for “EC Regulation” substitute “EU Regulation”.

**98.** In Article 6 (interpretation: “insolvency” and “go into liquidation”) in paragraph (3)(b) for “Article 37 of the EC Regulation” substitute “Article 51 of the EU Regulation”.

**99.** In Article 14 (those who may propose an arrangement) in paragraph (5) for “same meaning as in the EC Regulation” to the end of the sentence substitute “same meaning as in Article 3 of the EU Regulation.”

**100.** In Article 80 (final meeting prior to dissolution) after paragraph (3) insert—

“(3A) Paragraph (3B) applies where, immediately before the liquidator sends a copy of the account of the winding up to the registrar under paragraph (3), there are EU insolvency proceedings open in respect of the company in one or more other member States.

(3B) The liquidator must send to the registrar, with the copy of the account, a statement—

(a) identifying those proceedings,

(b) identifying that member State liquidator appointed in each of those proceedings, and

(c) indicating, in relation to each of those member State liquidators, whether the member State liquidator consents to the company being dissolved.”

**101.** In Article 104 (application for winding up)<sup>(5)</sup> for the words from “ in paragraph (1) for the words from a liquidator ” to “(within the meaning of Article 38 of the EC Regulation)” substitute “a

(1) [S.I. 1989/2405 \(N.I. 19\)](#).

(2) The definition of EC Regulation was inserted by [S.R. 2002/223](#).

(3) Article 2A was inserted by [S.R. 2002/334](#).

(4) Paragraph (6) was inserted by [S.R. 2002/334](#).

(5) Relevant amendments were made by [S.R. 2002/334](#).

member State liquidator appointed in proceedings by virtue of Article 3(1) of the EU Regulation or a temporary administrator (within the meaning of Article 52 of the EU Regulation)”.

**102.** In Article 124 (duty to summon final meeting) after paragraph (3) insert—

“(4) The liquidator shall during the relevant period send to the High court and the registrar—

- (a) a copy of the report, and
- (b) a statement of whether any of the company’s creditors objected to the liquidator’s release.

(5) The relevant period is the period of 7 days beginning with the day after the last day of the period prescribed by the rules as the period within which the creditors may object to the liquidator’s release.

(6) Paragraph (7) applies where, immediately before the liquidator sends a copy of the report to the High court and the registrar under paragraph (4), there are EU insolvency proceedings open in respect of the company in one or more other member States.

(7) The liquidator shall send to the High court and the registrar, with a copy of the report, a statement—

- (a) identifying those proceedings,
- (b) identifying the member State liquidator appointed in each of those proceedings,
- (c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved.”.

**103.** After Article 124 insert—

**“Official receiver’s duty to send statement to registrar about other proceedings—**

**124A.**—(1) This Article applies where—

- (a) the official receiver sends to the registrar of companies a notice that the winding up of a company by the court is complete, and
- (b) immediately before the official receiver sends the notice there are EU insolvency proceedings open in respect of the company in one or more other member States.

(2) The official receiver must send to the registrar, with the notice, a statement—

- (a) identifying those proceedings,
- (b) identifying the member State liquidator appointed in each of those proceedings, and
- (c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved.”.

**104.**—(1) Article 166 (dissolution (voluntary winding up)) is amended as follows.

(2) In paragraph (2)—

- (a) after “account” insert “and any statement under Article 80(3B),”,
- (b) at the end insert “(except where paragraph (2A) applies)”.

(3) After paragraph (2) insert—

“(2A) This paragraph applies where a statement sent to the registrar under Article 80 (3B) indicates that a member State liquidator does not consent to the company being dissolved.

(2B) Where paragraph (2A) applies, the company is deemed to be dissolved on the expiration of 3 months from the date (if any) recorded in the register as the date on which the registrar was notified that—

- (a) all proceedings identified in the statement sent under Article 80(3B) were closed; or
- (b) every member State liquidator appointed in those proceedings consented to the company being dissolved.”.

**105.**—(1) Article 167 (early dissolution) is amended as follows.

(2) After paragraph (1) insert—

“(1A) Paragraph (1B) applies where, immediately before the official receiver makes an application under paragraph (1), there are EU insolvency proceedings open in respect of the company in one or more member States.

(1B) The official receiver shall send to the registrar, with the application, a statement—

- (a) identifying those proceedings,
- (b) identifying the member State liquidator appointed in each of those proceedings, and
- (c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved.”

(3) In paragraph (2) for “that application” substitute “an application under paragraph (1).

(4) In paragraph (3) at the end add “and to send any statement under paragraph (1B).”

(5) In paragraph (4)—

(a) in the first sentence

- (i) after “under paragraph (1)” insert “and any statement under paragraph (1B),
- (ii) after “shall forthwith register it” insert “or them”, and
- (iii) at the end insert “(except where paragraph (5) applies)”.

(b) After paragraph (4) insert—

“(5) This paragraph applies where a statement under paragraph (1B) indicates that a member State liquidator does not consent to the company being dissolved.

(6) Where paragraph (5) applies, the company is deemed to be dissolved at the end of the period of 3 months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

- (a) all proceedings identified in the statement under paragraph (1B) were closed, or
- (b) every member State liquidator appointed in those proceedings consented to the company being dissolved.”

(c) Paragraph (5) becomes paragraph (7).

(6) In paragraph (5), for “that period” substitute “the period in paragraph (4) or (6)”.

**106.** In Article 168 (consequence of notice under Article 167), in paragraph (3)(b) for “Article 167(4)” substitute “Article 167(7)”.

**107.**—(1) Article 169 (dissolution otherwise than under Article 167) is amended as follows.

(2) In paragraph (1)—

- (a) after “of the notice” insert “ and any statement under Article 124(7) or 124A(2),”, and
- (b) after “the registration” insert “of the final account or notice”.

*Status: This is the original version (as it was originally made).*

(3) After paragraph (1) insert—

“(1A) Paragraph (1B) applies where a statement under Article 124(7) or 124A(2) indicates that a member State liquidator does not consent to the company being dissolved.

(1B) The company is not dissolved at the end of the period mentioned in paragraph (1) but is instead dissolved at the end of the period of 3 months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

- (a) all proceedings identified in the statement under Article 124(7) or 124A(2) were closed; or
- (b) every member State liquidator appointed in those proceedings consented to the company being dissolved.”

**108.** In Article 185 (winding up of unregistered companies)(6) in paragraph (3) for “EC Regulation” substitute “EU Regulation”.

**109.** In Article 189 (company incorporated outside Northern Ireland)(7) may be wound up though dissolved) in paragraph (2) for “EC Regulation” substitute “EU Regulation”.

**110.** In Article 204 (“relevant time” under Articles 202, 203)(8) in paragraph (3)(d) for “Article 37 of the EC Regulation” substitute “Article 51 of the EU Regulation”.

**111.** In Article 238 (who may present a bankruptcy petition)—

- (a) in paragraph (1)(ba) for “Article 38 of the EC Regulation” substitute “Article 52 of the EU Regulation”; and
- (b) for paragraph (1)(bb) substitute—

“(bb) by an insolvency practitioner within the meaning of Article 2(5) of the EU Regulation) appointed in proceedings by virtue of Article 3(1) of the EU Regulation”.

**112.** In Article 239 (conditions to be satisfied in respect of debtor)(9) in paragraph (3) for “EC Regulation” substitute “EU Regulation”.

**113.** In Article 303 (final distribution)(10) in paragraph (6) for “Article 35 of the EC Regulation” substitute “Article 49 of the Insolvency Regulation”.

**114.** In Article 347 (the “relevant date”)(11) in paragraphs (3)(aa) and (ab) for “Article 37 of the EC Regulation” substitute “Article 51 of the EU Regulation”.

**115.** In Article 359 (Insolvency rules)(12) in paragraphs (1), (2A) and (2B) for “EC Regulation” in each place where it occurs substitute “EU Regulation”.

**116.** In Article 364 (Insolvent partnerships)(13) in paragraphs (1A) and (1B) for “EC Regulation” in each place it occurs substitute “EU Regulation”.

**117.** In Article 365 (Insolvent estates of deceased persons)(14) in paragraphs (1A) and (1B) for “EC Regulation” in each place where it occurs substitute “EU Regulation”.

**118.** Schedule B1 (administration) is amended as follows.

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(6) Relevant amendments to paragraph (3) have been made by [S.R. 2002/334](#).

(7) Relevant amendments to paragraph (2) have been made by [S.R. 2002/334](#).

(8) Paragraphs (1)(ba) and (bb) were inserted by [S.R. 2002/334](#).

(9) Relevant amendments were made to paragraph (3) by [S.R. 2002/334](#).

(10) Relevant amendments were made to paragraph (6) by [S.R. 2002/334](#).

(11) Paragraphs (3)(aa) and (bb) were inserted by [S.R.2002/334](#) and 3(ab) was amended by [S.R. 2004/307](#).

(12) Article 359 was amended by [S.R. 2002/223](#) and [S.R. 2004/307](#).

(13) Article 364 was amended by [S.R. 2002/223](#).

(14) Paragraphs (1A) and (1B) were inserted by [S.R. 2002/223](#).

**119.**—(1) In paragraph 85 (moving from administration to dissolution) after sub-paragraph (1) insert—

“(1A) Sub-paragraph (1B) applies where, immediately before the administrator sends the notice, there are EU insolvency proceedings open in respect of the company in one or more member States.

(1B) The administrator must send to the registrar, with the notice, a statement—

- (a) identifying those proceedings,
- (b) identifying the member State liquidator appointed in each of those proceedings, and
- (c) indicating, in relation to each of those member State liquidators, whether that member State liquidator consents to the company being dissolved.”

(2) In sub-paragraph (3)—

- (a) after “sub-paragraph (1)” insert “ and any statement under sub-paragraph (1B)”, and
- (b) at the end insert “or them”.

(3) In sub-paragraph (6) at the end, insert “(except where sub-paragraph (6A) applies)”.

(4) After sub-paragraph (6) insert—

“(6A) This sub-paragraph applies where a statement under sub-paragraph (1B) indicates that a member State liquidator does not consent to the company being dissolved..

(6B) Where sub-paragraph (6A) applies, the company is deemed to be dissolved at the end of the period of three months beginning with the date (if any) recorded in the register as the date on which the registrar was notified that—

- (a) all proceedings identified under sub-paragraph (1B) were closed; or
- (b) every member State liquidator appointed in those proceedings consented to the company being dissolved.”

(5) In sub-paragraph (7)(a) and (c), after “sub-paragraph (6)” insert “or 6(B)”.

**120.** In Schedule B1 (administration) in paragraph 1 (1B)(**15**) for the words from “as in the EC Regulation” until the end of the sub-paragraph substitute “as in Article 3 of the EU Regulation”.

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(15) Schedule B1 was inserted by [S.I. 2005/1455 \(N.I. 10\)](#).