STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART V

WINDING UP OF COMPANIES REGISTERED UNDER [F1the Companies Act 2006]

CHAPTER VI

WINDING UP BY THE HIGH COURT

Appointment of liquidator

Appointment and powers of provisional liquidator

115.—(1) Subject to the provisons of this Article, the High Court may, at any time after the presentation of a winding#up petition, appoint a liquidator provisionally.

(2) The appointment of a provisional liquidator may be made at any time before the making of a winding#up order; and either the official receiver or any other fit person may be appointed.

(3) The provisional liquidator shall carry out such functions as the High Court may confer on him.

(4) When a liquidator is provisionally appointed by the High Court, his powers may be limited by the order appointing him.

Functions of official receiver in relation to office of liquidator

116.—(1) The following provisions of this Article have effect, subject to Article 119, on a winding#up order being made by the High Court.

(2) The official receiver, by virtue of his office, becomes the liquidator of the company and continues in office until another person becomes liquidator under the provisions of this Part.

(3) The official receiver is, by virtue of his office, the liquidator during any vacancy.

(4) At any time when he is the liquidator of the company, the official receiver may summon separate meetings of the company's creditors and contributories for the purpose of choosing a person to be liquidator of the company in place of the official receiver.

(5) It is the duty of the official receiver—

(a) as soon as practicable within the period of 12 weeks from the day on which the winding#up order was made, to decide whether to exercise his power under paragraph (4) to summon meetings, and

(b) if in pursuance of sub#paragraph (a) he decides not to exercise that power, to give notice of his decision, before the end of that period, to the High Court and to the company's creditors and contributories, and

(c) (whether or not he has decided to exercise that power) to exercise his power to summon meetings under paragraph (4) if he is at any time requested, in accordance with the rules, to do so by one#quarter, in value, of the company's creditors;

and accordingly, where the duty imposed by sub#paragraph (c) arises before the official receiver has performed a duty imposed by sub#paragraph (a) or (b), he is not required to perform the latter duty.

(6) A notice given under paragraph (5)(b) to the company's creditors shall contain an explanation of the creditors' power under paragraph (5)(c) to require the official receiver to summon meetings of the company's creditors and contributories.

Appointment by Department

117.—(1) In a winding up by the High Court the official receiver may, at any time when he is liquidator of the company, apply to the Department for the appointment of a person as liquidator in his place.

(2) If meetings are held in pursuance of a decision under Article 116(5)(a), but no person is chosen to be liquidator as a result of those meetings, it is the duty of the official receiver to decide whether to refer the need for an appointment to the Department.

(3) On an application under paragraph (1), or a reference made in pursuance of a decision under paragraph (2), the Department shall either make an appointment or decline to make one.

(4) Where a liquidator has been appointed by the Department under paragraph (3), the liquidator shall give notice of his appointment to the company's creditors or, if the High Court so allows, shall advertise his appointment in accordance with the directions of theCourt.

(5) In that notice or advertisement the liquidator shall—

(a) state whether he proposes to summon a general meeting of the company's creditors under Article 120 for the purpose of determining (together with any meeting of contributories) whether a liquidation committee should be established under that Article, and

(b) if he does not propose to summon such a meeting, set out the power of the company's creditors under that Article to require him to summon one.

Choice of liquidator at meetings of creditors and contributories

118.—(1) This Article applies where a company is being wound up by the High Court and separate meetings of the company's creditors and contributories are summoned for the purpose of choosing a person to be liquidator of the company.

(2) The creditors and the contributories at their respective meetings may nominate a person to be liquidator.

(3) The liquidator shall be the person nominated by the creditors or, where no person has been so nominated, the person (if any) nominated by the contributories.

(4) In the case of different persons being nominated, any contributory or creditor may, within 7 days from the date on which the nomination was made by the creditors, apply to the High Court for an order either—

(a) appointing the person nominated as liquidator by the contributories to be a liquidator instead of, or jointly with, the person nominated by the creditors; or

(b) appointing some other person to be liquidator instead of the person nominated by the creditors.

Appointment by the High Court following administration or voluntary arrangement

119.—[[F1](1) Where a winding-up order is made immediately upon the appointment of an administrator ceasing to have effect, the High Court may appoint as liquidator of the company the person whose appointment as administrator has ceased to have effect.**]**

(2) Where a winding#up order is made at a time when there is a supervisor of a voluntary arrangement approved in relation to the company under Part II, the High Court may appoint as liquidator of the company the person who is the supervisor at the time when the winding#up order is made.

(3) Where the High Court makes an appointment under this Article, the official receiver does not become the liquidator as otherwise provided by Article 116(2), and he has no duty under Article 116(5)(a) or (b) in respect of the summoning of creditors' or contributories' meetings.

F1 Art. 119(1) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 28 (with art. 4); S.R. 2006/21, **art. 2** (with S.R. 2006/22, **arts. 2** - 7)

Changes to legislation:
The Insolvency (Northern Ireland) Order 1989, Cross Heading: Appointment of liquidator is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to :

- Instrument amended by 1998 c. 11 s. 23 Sch. 5 Pt.1 Ch. 3 para. 40
- Instrument amended (prosp) by S.I. 1994/279 (N.I.) art. 26(1)Sch. 2 para. 15

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 9 Pt. 2 para. 66 revoked by 1996 c. 23 s. 107(2)Sch. 4 (Amendment could not be applied. The relevant affected text is not available on legislation.gov.uk)
- art. 2B inserted by 2016 c. 2 (N.I.) s. 2(1)
- art. 208ZA applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by S.I. 2023/1399 reg. 12 (This amendment not applied to Legislation.gov.uk. S. 208ZA is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 208ZA-208ZB inserted by 2016 c. 2 (N.I.) s. 1(1)
- art. 208ZB applied (with modifications) by S.I. 2021/716, reg. 37A (as inserted) by S.I. 2023/1399 reg. 12 (This amendment not applied to Legislation.gov.uk. S. 208ZB is inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), s. 1(1) which is currently prospective.)
- art. 345A-345B inserted by 2016 c. 2 (N.I.) s. 1(2)