

## SCHEDULES

### SCHEDULE 3

Article 12.

#### FUNCTIONS OF OFFICIAL RECEIVER WHICH CANNOT BE CONTRACTED OUT

1. The functions of the official receiver as—
  - (a) a receiver appointed pursuant to Article 42 (power of the Court to appoint official receiver);
  - (b) a provisional liquidator appointed pursuant to Article 115 (appointment and powers of provisional liquidator); or
  - (c) an interim receiver appointed pursuant to Article 259 (power of the Court to appoint interim receiver).
2. The receipt of any deposit which relates to a bankruptcy or winding-up petition.
3. The chairing—
  - (a) by virtue of rule 4.062 of the first meeting of creditors (as defined by rule 4.055(7)) or the first meeting of contributories (as so defined) in a winding up by the Court; or
  - (b) by virtue of rule 6.080 of the first meeting of creditors (as defined by rule 6.077(7)) in a bankruptcy.
4. The making of an application to the Department—
  - (a) under Article 117(1) for the appointment of another person as liquidator in the place of the official receiver; or
  - (b) under Article 269(1) for the appointment of a person as trustee instead of the official receiver.
5. The taking of a decision—
  - (a) pursuant to Article 117(2), whether to refer to the Department the need for an appointment of a liquidator in any case where at meetings held in pursuance of a decision under Article 116(5)(a) no person is chosen to be liquidator;
  - (b) pursuant to Article 268(1), whether to refer to the Department the need for an appointment of a trustee in any case where at a meeting summoned under Article 266 or 267 no appointment of a person as trustee is made.
6. The making of a reference to the Department under paragraph (4) of Article 273 of the need for an appointment of a trustee by the Department in the circumstances referred to in that paragraph.
7. The making of a reference to the Court or the Department, as the case may be, under paragraph (5) of Article 273 of the need to fill any vacancy in the circumstances referred to in that paragraph.
8. The functions of the official receiver—
  - (a) exercisable under rule 4.180(2) (functions of liquidation committee exercisable by official receiver), rule 6.163(2) (functions of creditors' committee exercisable by official receiver) or rule 6.230(2) (bankrupt may, with official receiver's consent, travel to Great Britain or the Republic of Ireland); or
  - (b) in relation to the hearing of an application made under—

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- (i) Article 254 (discharge by order of the Court);
- (ii) rule 4.040(2) (application to the Court for a release or extension of time in respect of statement of affairs in a winding up by the Court); or
- (iii) rule 6.060(2) (application to the Court by bankrupt for a release or extension of time in respect of statement of affairs).

**9.** The bringing or the conduct of proceedings under<sup>[F1]</sup> the Company Directors Disqualification (Northern Ireland) Order 2002].

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**10.** The giving of notice to the Department pursuant to Article 148(3) (release of official receiver in winding up by the Court) or Article 272(2) (release of official receiver as trustee).

**11.** Considering—

- (a) pursuant to rule 4.064(3), whether a request by creditors for a meeting of creditors or contributories, or meetings of both, or
- (b) pursuant to rule 4.064(3), as it applies by virtue of rule 4.064(5), whether a request by contributories for a meeting of contributories, or
- (c) pursuant to rule 6.081(3), whether a request by creditors for a meeting of creditors,

has been properly made in accordance with the Insolvency Order.

**12.** The making or conduct of any application to the Court—

- (a) to commit a bankrupt for contempt of court for failure to comply with a duty imposed on him by—
  - (i) Article 261 (statement of affairs);
  - (ii) Article 264 (duties of bankrupt in relation to official receiver);
  - (iii) Article 285 (obligation to surrender control to trustee);
  - (iv) Article 306 (duties of bankrupt in relation to trustee); or
  - (v) Article 334 (general control of the Court); or
- (b) pursuant to Article 253(3) (suspension of discharge on application by official receiver).

**13.** The making or conduct of any application to the Court to commit for contempt of court—

- (a) a person who has failed to attend his public examination under Article 113 (public examination of officers, etc.); or
- (b) a bankrupt who has failed to attend his public examination under Article 263 (public examination of bankrupt).

**14.** The making of a report to the Court pursuant to—

- (a) Article 112(1) (investigation by official receiver where a winding-up order is made by the Court);
- (b) Article 262(1) (investigation by official receiver of bankrupt's affairs);
- (c) Article 262(2) (report to the Court on application by bankrupt for discharge from bankruptcy);
- (d) rule 4.040(6) (report to the Court, etc. on application by officers of company, etc. for release from duty to submit statement of affairs or for extension of time);
- (e) rule 6.060(6) (report to the Court, etc. on application by bankrupt for release from duty to submit statement of affairs or for extension of time); or

- (f) rule 6.213(2) (report in support of application for suspension of discharge).
- 15.** The making or conduct of an application to the Court for a public examination under Article 113(1) or 263(1) and the making or conduct of any application in relation to any public examination.
- 16.** The making or conduct of an application to the Court to relieve the official receiver from an obligation to make an application for a public examination requested pursuant to Article 113(2) or required pursuant to Article 263(2).
- 17.** The taking part in a public examination or the questioning of a person pursuant to Article 113(4)(a) or the taking part in a public examination or the questioning of a bankrupt pursuant to Article 263(4)(a).
- 18.** The making or conduct of an application to the Court—
- (a) pursuant to Article 114(2) for the issue of a warrant for the arrest of a person and for the seizure of any books, papers, records, money or goods in that person's possession; or
  - (b) pursuant to Article 335, for the issue of a warrant for the arrest of a debtor, an undischarged bankrupt or a discharged bankrupt and for the seizure of any books, papers, records, money or goods in the debtor's or bankrupt's possession, as the case may be.
- 19.** The making or conduct of an application to the Court pursuant to Article 135 for the arrest of a contributory and for the seizure of his books, papers and movable personal property.
- 20.** The taking of affidavits and declarations pursuant to rule 7.52(5) (taking of affidavits and declarations).
- 21.** Any function of the official receiver in relation to the hearing of—
- (a) an application by a bankrupt for leave to act as a director of, or directly or indirectly to take part in or be concerned in the promotion, formation or management of, a company; or
  - (b) an application by a director in respect of whom a disqualification order made under Part II of the Companies (Northern Ireland) Order 1989 is in force, for leave—
    - (i) to be a director of a company;
    - (ii) to be a liquidator or administrator of a company;
    - (iii) to be a receiver or manager of a company's property; or
    - (iv) to be concerned or to take part in the promotion, formation or management of a company in any way, whether directly or indirectly.
- 22.** The making of a report to the Department pursuant to Article 10(3) of the Companies (Northern Ireland) Order 1989.
- 23.** Any function corresponding to one referred to in paragraphs 1 to 22 which is exercisable by the official receiver by virtue of the application (with or without modifications) of any provision of the insolvency legislation to insolvent partnerships or unregistered companies.
- 24.** The presentation of a winding-up petition pursuant to Article 104(6) (application by official receiver for winding up of company being wound up voluntarily).
- 25.** In this Schedule—
- except where otherwise expressly provided, an Article referred to by number means that Article in the Insolvency Order;
  - a rule referred to by number means that rule in the Rules.

**Changes to legislation:**

There are currently no known outstanding effects for the The Deregulation and Contracting Out (Northern Ireland) Order 1996, SCHEDULE 3.