
STATUTORY RULES OF NORTHERN IRELAND

1991 No. 364

The Insolvency Rules (Northern Ireland) 1991

PARTS 1 TO 4 COMPANY INSOLVENCY; COMPANIES WINDING UP

PART 3

RECEIVERSHIP PROCEDURE

CHAPTER 3

STATEMENT OF AFFAIRS AND REPORT TO CREDITORS

Notice requiring statement of affairs

3.04.—(1) The administrative receiver shall send notice to each of the persons whom he considers should be made responsible under Article 57, requiring them to prepare and submit to him a statement of the company's affairs.

(2) The persons to whom the notice is sent are referred to in this Chapter as “the deponents”.

(3) The notice shall inform each of the deponents—

(a) of the names and addresses of all others (if any) to whom the same notice has been sent;

(b) of the time within which the statement must be delivered;

(c) of the effect of Article 57(6) (penalty for non-compliance); and

(d) of the application to him, and to each of the other deponents, of Article 199 (duty to provide information, and to attend on the administrative receiver if required).

(4) The administrative receiver shall, on request, furnish each deponent with the forms required for the preparation of the statement of affairs.

[E.R.3.3]

Verification and filing

3.05.—(1) The statement of affairs shall be in Form 3.04, shall contain all the particulars required by that form and shall be verified by affidavit by the deponents (using the same form).

(2) The administrative receiver may require any of the persons mentioned in Article 57(3) to submit an affidavit of concurrence, stating that he concurs in the statement of affairs.

(3) An affidavit of concurrence may be qualified in respect of matters dealt with in the statement of affairs, where the maker of the affidavit is not in agreement with the deponents, or he considers the statement to be erroneous or misleading, or he is without the direct knowledge necessary for concurring with it.

(4) The statement of affairs shall be delivered to the receiver by the deponent making the affidavit of verification (or by one of them, if more than one), together with a copy of the verified statement.

(5) Every affidavit of concurrence shall be delivered by the person who makes it, together with a copy.

(6) The administrative receiver shall retain the verified copy of the statement and the affidavits of concurrence (if any) as part of the records of the receivership.

[E.R.3.4]

Limited disclosure

3.06.—(1) Where the administrative receiver thinks that it would prejudice the conduct of the receivership for the whole or part of the statement of affairs to be disclosed, he may apply to the court for an order of limited disclosure in respect of the statement or a specified part of it.

(2) The court may on the application order that the statement, or, as the case may be, the specified part of it, be not open to inspection otherwise than with leave of the court.

(3) The court's order may include directions as to the delivery of documents to the registrar and the disclosure of relevant information to other persons.

[E.R.3.5]

Release from duty to submit statement of affairs; extension of time

3.07.—(1) The power of the administrative receiver under Article 57 (5) to give a release from the obligation imposed by that Article, or to grant an extension of time, may be exercised at the administrative receiver's own discretion, or at the request of any deponent.

(2) A deponent may, if he requests a release or extension of time and it is refused by the administrative receiver, apply to the court for it.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it; but it shall not do so unless the applicant has had an opportunity to attend the court for an ex parte hearing, of which he had been given at least 7 days' notice.

(4) If the application is not dismissed under paragraph (3), the court shall fix a venue for it to be heard, and give notice to the deponent accordingly.

(5) The deponent shall, at least 14 days before the hearing date, send to the administrative receiver a notice stating the venue and accompanied by a copy of the application, and of any evidence which he (the deponent) intends to adduce in support of it.

(6) The administrative receiver may appear and be heard on the application; and, whether or not he appears, he may file a written report of any matters which he considers ought to be drawn to the court's attention.

(7) If a report is filed under paragraph (6), a copy of it shall be sent by the administrative receiver to the deponent, not later than 5 days before the hearing date.

(8) Sealed copies of any order made on the application shall be sent by the court to the deponent and the administrative receiver.

(9) On any application under this Rule the applicant's costs shall be paid in any event by him and, unless the court otherwise orders, no allowance towards them shall be made out of the assets under the administrative receiver's control.

[E.R.3.6]

Expenses of statement of affairs

3.08.—(1) A deponent making the statement of affairs and affidavit shall be allowed, and paid by the administrative receiver out of his receipts, any expenses incurred by the deponent in so doing which the administrative receiver thinks reasonable.

(2) Any decision by the administrative receiver under this Rule is subject to appeal to the court.

(3) Nothing in this Rule relieves a deponent from any obligation with respect to the preparation, verification and submission of the statement of affairs, or to the provision of information to the administrative receiver.

[E.R.3.7]

Report to creditors

3.09.—(1) If under Article 58(2) the administrative receiver determines not to send a copy of his report to creditors, but to publish notice under sub-paragraph (b) of that paragraph, the notice shall be published in the newspaper in which the administrative receiver's appointment was advertised.

(2) If he proposes to apply to the court to dispense with the holding of the meeting of unsecured creditors (otherwise required by Article 58(2)), he shall in his report to creditors or (as the case may be) in the notice published pursuant to paragraph (1), state the venue fixed by the court for the hearing of the application.

(3) Subject to any order of the court under Rule 3.06, the copy of the administrative receiver's report which under Article 58(1) is to be sent to the registrar shall have attached to it a copy of any statement of affairs under Article 57, and copies of any affidavits of concurrence.

(4) If the statement of affairs or affidavits of concurrence, if any, have not been submitted to the administrative receiver by the time he sends a copy of his report to the registrar, he shall send a copy of the statement and any affidavits of concurrence as soon thereafter as he receives them.

[E.R.3.8]