
STATUTORY RULES OF NORTHERN IRELAND

1991 No. 364

The Insolvency Rules (Northern Ireland) 1991

PARTS 1 TO 4 COMPANY INSOLVENCY; COMPANIES WINDING UP

PART 4

COMPANIES WINDING UP

CHAPTER 22

LEAVE TO ACT AS DIRECTOR, ETC. OF COMPANY
WITH PROHIBITED NAME (ARTICLE 180)

Preliminary

4.236. This Chapter—

- (a) relates to the leave required under Article 180 (restriction on re-use of name of company in insolvent liquidation) for a person to act as mentioned in Article 180(3) in relation to a company with a prohibited name,
- (b) prescribes the cases excepted from that provision, that is to say, those in which a person to whom the Article applies may so act without that leave.

[E.R.4.226]

Application for leave under Article 180(3)

4.237. When considering an application for leave under Article 180, the court may call on the liquidator, or any former liquidator, of the liquidating company for a report of the circumstances in which that company became insolvent, and the extent (if any) of the applicant's apparent responsibility for its doing so.

[E.R.4.227]

First excepted case

4.238.—(1) Where a company (“the successor company”) acquires the whole, or substantially the whole, of the business of an insolvent company, under arrangements made by an insolvency practitioner acting as its liquidator, administrator or administrative receiver, or as supervisor of a voluntary arrangement under Part II of the Order, the successor company may for the purposes of Article 180 give notice under this Rule to the insolvent company's creditors.

(2) To be effective, the notice must be given within 28 days from the completion of the arrangements, to all creditors of the insolvent company of whose addresses the successor company is aware in that period; and it must specify—

- (a) the name and registered number of the insolvent company and the circumstances in which its business has been acquired by the successor company,

- (b) the name which the successor company has assumed, or proposes to assume for the purpose of carrying on the business, if that name is or will be a prohibited name under Article 180, and
- (c) any change of name which it has made, or proposes to make, for that purpose under Article 38 of the Companies Order.

(3) The notice may name a person to whom Article 180 may apply as having been a director or shadow director of the insolvent company, and give particulars as to the nature and duration of that directorship, with a view to his being a director of the successor company or being otherwise associated with its management.

(4) If the successor company has effectively given notice under this Rule to the insolvent company's creditors, a person who is so named in the notice may act in relation to the successor company in any of the ways mentioned in Article 180(3), notwithstanding that he has not the leave of the court under that Article.

[E.R.4.228]

Second excepted case

4.239.—(1) Where a person to whom Article 180 applies as having been a director or shadow director of the liquidating company applies for leave of the court under that Article not later than 7 days from the date on which the company went into liquidation, he may, during the period specified in paragraph (2), act in any of the ways mentioned in Article 180(3) notwithstanding that he has not the leave of the court under that Article.

(2) The period referred to in paragraph (1) begins with the day on which the company goes into liquidation and ends either on the day falling six weeks after that date or on the day on which the court disposes of the application for leave under Article 180, whichever of those days occurs first.

[E.R.4.229]

Third excepted case

4.240. The court's leave under Article 180(3) is not required where the company there referred to, though known by a prohibited name within the meaning of the Article—

- (a) has been known by that name for the whole of the period of 12 months ending with the day before the liquidating company went into liquidation, and
- (b) has not at any time in those 12 months been dormant within the meaning of Article 260(5) of the Companies Order.

[E.R.4.230]