
STATUTORY RULES OF NORTHERN IRELAND

1991 No. 364

The Insolvency Rules (Northern Ireland) 1991

PARTS 7 TO 12

PART 7

COURT PROCEDURE AND PRACTICE

CHAPTER 9

GENERAL

Principal court rules and practice to apply

7.45. Except so far as inconsistent with the Rules, the Supreme Court Rules and the practice of the High Court apply to insolvency proceedings with any necessary modifications.

[E.R.7.51]

Right of audience

7.46. Official receivers have right of audience in insolvency proceedings.

[E.R.7.52]

Right of attendance (company insolvency)

7.47.—(1) Subject to paragraphs (2) to (6), in company insolvency proceedings any person stating himself in writing, in records kept by the court for that purpose, to be a creditor or member of the company or, where the company is being wound up, a contributory, is entitled, at his own cost, to attend in court or in chambers at any stage of the proceedings.

(2) Attendance may be by the person himself, or his solicitor.

(3) A person so entitled may request the court in writing to give him notice of any step in the proceedings; and, subject to his paying the costs involved and keeping the court informed as to his address, the court shall comply with the request.

(4) If the court is satisfied that the exercise by a person of his rights under this Rule has given rise to costs for the insolvent estate which would not otherwise have been incurred and ought not, in the circumstances, to fall on that estate, it may direct that the costs be paid by the person concerned, to an amount specified.

(5) The person's rights under this Rule are in abeyance so long as those costs are not paid.

(6) The court may appoint one or more persons to represent the creditors, the members or the contributories of an insolvent company, or any class of them, to have the rights conferred by this Rule, instead of the rights being exercisable by any or all of them individually.

(7) If two or more persons are appointed under paragraph (6) or represent the same interest, they must (if at all) instruct the same solicitor.

[E.R.7.53]

Responsible insolvency practitioner's solicitor

7.48. Where in any proceedings the attendance of the responsible insolvency practitioner's solicitor is required, whether in court or in chambers, the responsible insolvency practitioner himself need not attend, unless directed by the court.

[E.R.7.54]

Drawing up and filing of orders

7.49.—(1) Subject to paragraph (2), every order of the court shall be drawn up, sealed and filed.

(2) The Judge may direct that specified categories of orders need not be drawn up unless the Judge or the Master making the order otherwise directs.

(3) Where no order is drawn up, a note or memorandum of the order, signed or initialled by the Judge or the Master making the order and filed, shall be sufficient evidence of the order having been made.

(4) Where an order has not been drawn up, a party to the proceedings in which the order is made may, and if he wishes to appeal against the order shall, within 7 days after the order is made, apply to the Master to have the order drawn up, and on such application the order shall be drawn up, sealed and filed.

Formal defects

7.50. No insolvency proceedings shall be invalidated by any formal defect or by any irregularity, unless the court before which objection is made considers that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the court.

[E.R.7.55]

Restriction on concurrent proceedings and remedies

7.51. Where in insolvency proceedings the court makes an order staying any action, execution or other legal process against the property of a company, or against the property or person of an individual debtor or bankrupt, service of the order may be effected by sending a sealed copy of the order to whatever is the address for service of the plaintiff or other party having the carriage of the proceedings to be stayed.

[E.R.7.56]

Affidavits

7.52.—(1) Subject to paragraphs (2) to (5), the rules and practice obtaining in the High Court with regard to affidavits, their form and contents, and the procedure governing their use, are to be taken as applicable in all insolvency proceedings.

(2) In applying Order 41 of the Supreme Court Rules (which relates to affidavits generally), there are to be disregarded provisions which are inconsistent with, or necessarily excluded by, paragraphs (3) to (5).

(3) Where in insolvency proceedings an affidavit is made by the official receiver or the responsible insolvency practitioner, the deponent shall state the capacity in which he makes it, the position which he holds, and the address at which he works.

(4) Notwithstanding Order 41, rule 8 of the Supreme Court Rules (affidavit not to be sworn before party's own solicitor), a creditor's affidavit of debt may be sworn before his own solicitor.

(5) The official receiver or any officer of the court duly authorised in that behalf, may take affidavits and declarations.

[E.R.7.57]

Security in court

7.53.—(1) Subject to paragraph (3), where security has to be given to the court (otherwise than in relation to costs) it shall be given by bond.

(2) The bond shall be taken in a penal sum which, except with the consent of the opposite party, shall be not less than the sum for which security is to be given and probable costs.

(3) A person required to give security may, in lieu thereof, lodge in court a sum equal to the sum for which security is to be given and probable costs, together with a memorandum approved by the Master and signed by such person or his solicitor stating the conditions on which the money is deposited.

(4) Upon the lodgment the Master shall forthwith notify the persons for whose protection the security is given that the money has been lodged in court.

[E.R.7.58]

Discovery

7.54.—(1) Any party to insolvency proceedings may, with the leave of the court, administer interrogatories to, or obtain discovery from, any other party to those proceedings.

(2) Application under this Rule may be made ex parte.

[E.R.7.60]

Office copies of documents

7.55.—(1) Any person who has under the Rules the right to inspect the court file of insolvency proceedings may require the court to provide him with an office copy of any document from the file.

(2) A person's rights under this Rule may be exercised on his behalf by his solicitor.

(3) An office copy provided by the court under this Rule shall be in such form as the Master thinks appropriate, and shall bear the court's seal.

[E.R.7.61]