
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 574

The Insolvency Regulations (Northern Ireland) 1996

Part 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Insolvency Regulations (Northern Ireland) 1996 and shall come into operation on 31st January 1997.

[E.R. 1]

Revocation

2. Subject to regulation 50, the Insolvency Regulations (Northern Ireland) 1991(1) are hereby revoked.

[E.R. 2]

Interpretation and application

3.—(1) In these Regulations—

“bank” means any authorised institution in Northern Ireland within the meaning of the Banking Act 1987(2) or a European deposit-taker as defined in regulation 82(3) of the Banking Coordination (Second Council Directive) Regulations 1992(3) that is to say a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits;

“bankrupt” means the bankrupt or his estate;

“company” means the company which is being wound up;

“creditors' committee” means any committee established under Article 274;

“debtor” means an individual by or for whom or in respect of whose affairs a deed of arrangement has been made or entered into and includes a partnership of individuals;

“liquidation committee” means, in the case of a winding up by the court, any committee established under Article 120 and, in the case of a creditors' voluntary winding up, any committee established under Article 87;

“liquidator” includes, in the case of a company being wound up by the court, the official receiver when so acting;

(1) S.R. 1991 No. 388

(2) 1987 c. 22

(3) S.I. 1992/3218 amended by S.I. 1993/3225

“local bank” means any bank in the locality in which any business of the company or, as the case may be, the bankrupt is carried on;

“local bank account” means, in the case of a winding up by the court, a current account opened with a local bank under regulation 6(2) and, in the case of a bankruptcy, a current account opened with a local bank under regulation 21(1);

“the Order” means the Insolvency (Northern Ireland) Order 1989;

“payment instrument” means a cheque or payable order;

“the Rules” means the Insolvency Rules (Northern Ireland) 1991; and

“trustee” means—

- (a) in Parts 3 and 5, subject to regulation 19(2), trustee of a bankrupt’s estate including the official receiver when so acting; and
- (b) in Part 6, trustee under a deed of arrangement;

and other expressions used in these Regulations and defined by the Rules have the meanings which they bear in the Rules.

(2) In these Regulations—

- (a) any reference to a numbered Article shall be construed as a reference to the Article bearing that number in the Order;
- (b) any reference to a numbered Rule shall be construed as a reference to the Rule bearing that number in the Rules; and
- (c) any reference to a numbered Form shall be construed as a reference to the Form bearing that number in Schedule 2.

(3) Any application to be made to the Department or anything required to be sent to the Department under these Regulations shall be addressed to The Director, The Insolvency Service, Fermanagh House, Ormeau Avenue, Belfast, BT2 8NJ.

(4) Where a regulation makes provision for the use of a form obtainable from the Department, the Department may provide different forms for different cases arising under that regulation.

(5) Subject to regulation 50, these Regulations apply—

- (a) to winding up proceedings commenced on or after 1st October 1991;
- (b) to bankruptcy proceedings where the bankruptcy petition is or was presented on or after that day; and
- (c) to proceedings under Chapter I of Part VIII of the Order where a deed of arrangement is or was registered on or after that day.

[E.R. 3]

Part 2

WINDING UP

Introductory

4. This Part relates to—

- (a) voluntary winding up, and
- (b) winding up by the court

of companies.

[E.R. 4]

PAYMENTS INTO AND OUT OF THE INSOLVENCY ACCOUNT

Payments into the Insolvency Account

5.—(1) In the case of a winding up by the court, subject to regulation 6, the liquidator shall pay all money received by him in the course of carrying out his functions as such without any deduction into the Insolvency Account kept by the Department under Article 358 once every 14 days or forthwith if £5,000 or more has been received.

(2) Every payment of money into the Insolvency Account under paragraph (1) shall be sent direct to the bank where the Insolvency Account is kept by cheque drawn in favour of the “Insolvency Account” and crossed “A/c payee only” and the liquidator shall on request be given by the Department a receipt for the money so paid.

(3) Every payment of money into the Insolvency Account under paragraph (1) shall be accompanied by a form obtainable from the Department for that purpose.

(4) Where in a voluntary winding up a liquidator or former liquidator pays any unclaimed dividend into the Insolvency Account, he shall at the same time give notice to the Department, on a form obtainable from the Department, of the name and address of the person to whom the dividend is payable and the amount of the dividend.

[E.R. 5]

Local bank account and handling of funds not belonging to the company

6.—(1) This regulation does not apply in the case of a voluntary winding up.

(2) Where the liquidator intends to exercise his power to carry on the business of the company, he may apply to the Department for authorisation to open a local bank account, and the Department may authorise him to make his payments into and out of a specified bank, subject to a limit, instead of into and out of the Insolvency Account if satisfied that an administrative advantage will be derived from having such an account.

(3) Money received by the liquidator relating to the purpose for which the account was opened may be paid into the local bank account to the credit of the company to which the account relates.

(4) Where the liquidator opens a local bank account pursuant to an authorisation granted under paragraph (2), he shall open and maintain the account in the name of the company.

(5) Where money which is not an asset of the company is provided to the liquidator for a specific purpose, it shall be clearly identifiable in a separate account.

(6) The liquidator shall keep proper records, including documentary evidence of all money paid into and out of every local bank account opened and maintained under this regulation.

(7) The liquidator shall pay without deduction any surplus over any limit imposed by an authorisation granted under paragraph (2) into the Insolvency Account in accordance with regulation 5 as that regulation applies in the case of a winding up by the court.

(8) As soon as the liquidator ceases to carry on the business of the company or vacates office or an authorisation given in pursuance of an application under paragraph (2) is withdrawn, he shall close the account and pay any balance into the Insolvency Account in accordance with regulation 5 as that regulation applies in the case of a winding up by the court.

[E.R. 6]

Payment of disbursements etc. out of the Insolvency Account

7.—(1) This regulation does not apply in the case of a voluntary winding up.

(2) On application to the Department, the liquidator shall be repaid all necessary disbursements made by him, and expenses properly incurred by him, in the course of his administration to the date of his vacation of office out of any money standing to the credit of the company in the Insolvency Account.

(3) The liquidator shall on application to the Department obtain payment instruments to the order of the payee for sums which become payable on account of the company for delivery by the liquidator to the persons to whom the payments are to be made.

(4) Any application under this regulation shall be made by the liquidator on a form obtainable from the Department for the purpose.

(5) On the liquidator vacating office, he shall be repaid by any succeeding liquidator out of any funds available for the purpose any necessary disbursements made by him and any expenses properly incurred by him but not repaid before he vacates office.

[E.R. 7]

DIVIDENDS TO CREDITORS AND RETURNS OF CAPITAL TO CONTRIBUTORIES OF A COMPANY

Payment

8.—(1) This regulation does not apply in the case of a voluntary winding up.

(2) The liquidator shall pay every dividend by payment instruments which shall be prepared by the Department on the application of the liquidator and transmitted to him for distribution amongst the creditors.

(3) The liquidator shall pay every return of capital to contributories by payment instruments which shall be prepared by the Department on application.

(4) Any application under this regulation for a payment instrument shall be made by the liquidator on a form obtainable from the Department for the purpose.

(5) The liquidator shall enter the total amount of every dividend and of every return to contributories that he desires to pay under this regulation in the records to be kept under regulation 10 in one sum.

(6) On the liquidator vacating office, he shall send to the Department any valid unclaimed or undelivered payment instruments for dividends or returns to contributories after endorsing them with the word “cancelled”.

[E.R. 8]

PAYMENT OF INTEREST

Interest

9. Whenever the cash balance standing to the credit of a company in the Insolvency Account on or after 31st January 1997 exceeds £2,000, the Department shall pay into the Insolvency Account to the credit of the company interest on the excess at the rate of 3.5 per cent. per annum.

[E.R. 9]

RECORDS TO BE MAINTAINED BY LIQUIDATORS AND THE PROVISION OF INFORMATION

Financial records

10.—(1) This regulation does not apply in the case of a members' voluntary winding up.

(2) The liquidator shall prepare and keep—

- (a) separate financial records in respect of each company; and
- (b) such other financial records as are required to explain the receipts and payments entered in the records described in sub-paragraph (a) or regulation 12(2), including an explanation of the source of any receipts and the destination of any payments;

and shall, subject to regulation 12(2) as to trading accounts, from day to day enter in those records all the receipts and payments made by him.

(3) In the case of a winding up by the court, the liquidator shall obtain and keep bank statements relating to any local bank account in the name of the company.

(4) The liquidator shall submit financial records to the liquidation committee when required for inspection.

(5) In the case of a winding up by the court, if the liquidation committee is not satisfied with the contents of the financial records submitted under paragraph (4) it may so inform the Department, giving the reasons for its dissatisfaction.

[E.R. 10]

Provision of information by liquidator

11.—(1) In the case of a winding up by the court, the liquidator shall, within 14 days of the receipt of a request for a statement of his receipts and payments as liquidator from any creditor, contributory or director of the company, supply free of charge to the person making the request, a statement of his receipts and payments as liquidator during the period of one year ending on the most recent anniversary of his becoming liquidator which preceded the request.

(2) In the case of a voluntary winding up, the liquidator shall, on request from any creditor, contributory or director of the company for a copy of a statement for any period, including future periods, sent to the registrar under Article 162, send such copy free of charge to the person making the request and the copy of the statement shall be sent within 14 days of the liquidator sending the statement to the registrar or the receipt of the request whichever is the later.

[E.R. 11]

Liquidator carrying on business

12.—(1) This regulation does not apply in the case of a members' voluntary winding up.

(2) Where the liquidator carries on any business of the company, he shall—

- (a) keep a separate and distinct account of the trading, including, where appropriate, in the case of a winding up by the court, particulars of all local bank account transactions; and
- (b) incorporate in the financial records required to be kept under regulation 10 the total weekly amounts of the receipts and payments made by him in relation to the account kept under sub-paragraph (a).

[E.R. 12]

Retention and delivery of records

13.—(1) All records kept by the liquidator under regulations 10 and 12(2) and any such records received by him from a predecessor in that office shall be retained by him for a period of 6 years following—

- (a) his vacation of office, or
- (b) in the case of the official receiver, his release as liquidator under Article 148,

unless he delivers them to another liquidator who succeeds him in office.

(2) Where the liquidator is succeeded in office by another liquidator, the records referred to in paragraph (1) shall be delivered to that successor forthwith, unless, in the case of a winding up by the court, the winding up is for practical purposes complete and the successor is the official receiver, in which case the records are only to be delivered to the official receiver if the latter so requests.

[E.R. 13]

Provision of accounts by liquidator and audit of accounts

14.—(1) The liquidator shall, if required by the Department at any time, send to the Department an account in relation to the company of the liquidator's receipts and payments covering such period as the Department may direct and such account shall, if so required by the Department, be certified by the liquidator.

(2) Where the liquidator in a winding up by the court vacates office prior to the holding of the final general meeting of creditors under Article 124, he shall within 14 days of vacating office send to the Department an account of his receipts and payments as liquidator for any period not covered by an account previously so sent by him or if no such account has been sent, an account of his receipts and payments in respect of the whole period of his office.

(3) In the case of a winding up by the court, where:

- (a) a final general meeting of creditors has been held pursuant to Article 124, or
- (b) a final general meeting is deemed to have been held by virtue of Rule 4.132(5),

the liquidator shall send to the Department, in case (a), within 14 days of the holding of the final general meeting of creditors and, in case (b), within 14 days of his report to the court pursuant to Rule 4.132(5), an account of his receipts and payments as liquidator which are not covered by any previous account so sent by him, or if no such account has been sent an account of his receipts and payments in respect of the whole period of his office.

(4) In the case of a winding up by the court, where a statement of affairs has been submitted under the Order, any account sent under this regulation shall be accompanied by a summary of that statement of affairs and shall show the amount of any assets realised and explain the reasons for any non-realisation of any assets not realised.

(5) In the case of a winding up by the court, where a statement of affairs has not been submitted under the Order, any account sent under this regulation shall be accompanied by a summary of all known assets and their estimated values and shall show the amounts actually realised and explain the reasons for any non-realisation of any assets not realised.

(6) Any account sent to the Department shall, if it so requires, be audited, but whether or not the Department requires the account to be audited, the liquidator shall send to the Department on demand any documents (including vouchers and bank statements) and any information relating to the account.

(7) Any account sent to the Department under this regulation shall be on a form obtainable from the Department for the purpose.

[E.R. 14]

Production and inspection of records

15. The liquidator shall produce on demand to the Department, and allow it to inspect, any accounts, books and other records kept by him (including any passed to him by a predecessor in office), and this duty to produce and allow inspection shall extend—

- (a) to producing and allowing inspection at the premises of the liquidator; and
- (b) to producing and allowing inspection of any financial records of the kind described in regulation 10(2)(b) prepared by the liquidator (or any predecessor in office of his) before 31st January 1997 and kept by the liquidator;

and any such demand may—

- (i) require the liquidator to produce any such accounts, books or other records to the Department, and allow it to inspect them—
 - (A) at the same time as any account is sent to the Department under regulation 14; or
 - (B) at any time after such account is sent to the Department; whether or not the Department requires the account to be audited; or
- (ii) where it is made for the purpose of ascertaining whether the provisions of these Regulations relating to the handling of money received by the liquidator in the course of carrying out his functions have been or are likely to be complied with, be made at any time, whether or not an account has been sent or should have been sent to the Department under regulation 14 and whether or not the Department has required any account to be audited.

[E.R. 15]

Disposal of company's books, papers and other records

16.—(1) The liquidator in a winding up by the court, on the authorisation of the official receiver, during his tenure of office or on vacating office, or the official receiver while acting as liquidator, may at any time sell, destroy or otherwise dispose of the books, papers and other records of the company.

(2) In the case of a voluntary winding up, the person who was the last liquidator of a company which has been dissolved may, at any time after the expiration of a period of one year from the date of dissolution, destroy or otherwise dispose of the books, papers and other records of the company.

[E.R. 16]

Voluntary liquidator to provide information to Department

17.—(1) In the case of a voluntary winding up, a liquidator or former liquidator, whether the winding up has been concluded under Rule 4.233 or not, shall, within 14 days of a request by the Department, give the Department particulars of any money in his hands or under his control representing unclaimed or undistributed assets of the company or dividends or other sums due to any person as a member or former member of the company and such other particulars as the Department may require for the purpose of ascertaining or getting in any money payable into the Insolvency Account.

(2) The particulars referred to in paragraph (1) shall, if the Department so requires, be certified by the liquidator, or former liquidator, as the case may be.

[E.R. 17]

Payment of unclaimed or undistributed assets, dividends or other money on dissolution of company

18. In the case of a company which has been dissolved, notwithstanding anything in these Regulations, any money in the hands of any or any former liquidator at the date of dissolution of the company or his earlier vacation of office, representing unclaimed or undistributed assets of the company or dividends or held by the company in trust in respect of dividends or other sums due to any person as a member or former member of the company, shall forthwith be paid by him into the Insolvency Account.

[E.R. 18]

Part 3

BANKRUPTCY

Introductory

19.—(1) This Part relates to bankruptcy.

(2) In addition to the application of the provisions of this Part to the official receiver when acting as trustee, the provisions of this Part (other than regulations 31 and 32) shall also apply to him when acting as receiver or manager under Article 260 and the term “trustee” shall be construed accordingly.

[E.R. 19]

PAYMENTS INTO AND OUT OF THE INSOLVENCY ACCOUNT

Payments into the Insolvency Account

20.—(1) Subject to regulation 21, the trustee shall pay all money received by him in the course of carrying out his functions as such without any deduction into the Insolvency Account kept by the Department under Article 358 once every 14 days or forthwith if £5,000 or more has been received.

(2) Every payment of money into the Insolvency Account under paragraph (1) shall be sent direct to the bank where the Insolvency Account is kept by cheque drawn in favour of the “Insolvency Account” and crossed “A/c payee only” and the trustee shall on request be given by the Department a receipt for the money so paid.

(3) Every payment of money into the Insolvency Account under paragraph (1) shall be accompanied by a form obtainable from the Department for that purpose.

[E.R. 20]

Local bank account and handling of funds not forming part of the bankrupt’s estate

21.—(1) Where the trustee intends to exercise his power to carry on the business of the bankrupt, he may apply to the Department for authorisation to open a local bank account, and the Department may authorise him to make his payments into and out of a specified bank, subject to a limit, instead of into and out of the Insolvency Account if satisfied that an administrative advantage will be derived from having such an account.

(2) Money received by the trustee relating to the purpose for which the account was opened may be paid into the local bank account to the credit of the bankrupt to whom the account relates.

(3) Where the trustee opens a local bank account pursuant to an authorisation granted under paragraph (1), he shall open and maintain the account in the name of the bankrupt.

(4) Where money which does not form part of the bankrupt's estate is provided to the trustee for a specific purpose it shall be clearly identifiable in a separate account.

(5) The trustee shall keep proper records, including documentary evidence of all money paid into and out of every local bank account opened and maintained under this regulation.

(6) The trustee shall pay without deduction any surplus over any limit imposed by an authorisation granted under paragraph (1) into the Insolvency Account in accordance with regulation 20(1).

(7) As soon as the trustee ceases to carry on the business of the bankrupt or vacates office or an authorisation given in pursuance of an application under paragraph (1) is withdrawn, he shall close the account and pay any balance into the Insolvency Account in accordance with regulation 20(1).

[E.R. 21]

Payment of disbursements etc. out of the Insolvency Account

22.—(1) On application to the Department, the trustee shall be repaid all necessary disbursements made by him, and expenses properly incurred by him, in the course of his administration to the date of his vacation of office out of any money standing to the credit of the bankrupt in the Insolvency Account.

(2) The trustee shall on application to the Department obtain payment instruments to the order of the payee for sums which become payable on account of the bankrupt for delivery by the trustee to the persons to whom the payments are to be made.

(3) Any application under this regulation shall be made on a form obtainable from the Department.

(4) On the trustee vacating office, he shall be repaid by any succeeding trustee out of any funds available for the purpose any necessary disbursements made by him and any expenses properly incurred by him but not repaid before he vacates office.

[E.R. 22]

DIVIDENDS TO CREDITORS

Payment

23.—(1) The trustee shall pay every dividend by payment instruments which shall be prepared by the Department on the application of the trustee and transmitted to him for distribution amongst the creditors.

(2) Any application under this regulation for a payment instrument shall be made by the trustee on a form obtainable from the Department for the purpose.

(3) The trustee shall enter the total amount of every dividend that he desires to pay under this regulation in the records to be kept under regulation 25 in one sum.

(4) On the trustee vacating office, he shall send to the Department any valid unclaimed or undelivered payment instruments for dividends after endorsing them with the word "cancelled".

[E.R. 23]

PAYMENT OF INTEREST

Interest

24. Whenever the cash balance standing to the credit of a bankrupt in the Insolvency Account on or after 31st January 1997 exceeds £2,000, the Department shall pay into the Insolvency Account to the credit of the bankrupt interest on the excess at the rate of 3.5 per cent. per annum.

RECORDS TO BE MAINTAINED BY TRUSTEES AND THE PROVISION OF INFORMATION

Financial records

25.—(1) The trustee shall prepare and keep—

- (a) separate financial records in respect of each bankrupt; and
- (b) such other financial records as are required to explain the receipts and payments entered in the records described in sub-paragraph (a) or regulation 27, including an explanation of the source of any receipts and the destination of any payments;

and shall, subject to regulation 27 as to trading accounts, from day to day enter in those records all the receipts and payments made by him.

(2) The trustee shall obtain and keep bank statements relating to any local bank account in the name of the bankrupt.

(3) The trustee shall submit financial records to the creditors' committee when required for inspection.

(4) If the creditors' committee is not satisfied with the contents of the financial records submitted under paragraph (3) it may so inform the Department, giving the reasons for its dissatisfaction.

[E.R. 24]

Provision of information by trustee

26. The trustee shall, within 14 days of the receipt of a request from any creditor or the bankrupt for a statement of his receipts and payments as trustee, supply free of charge to the person making the request, a statement of his receipts and payments as trustee during the period of one year ending on the most recent anniversary of his becoming trustee which preceded the request.

[E.R. 25]

Trustee carrying on business

27. Where the trustee carries on any business of the bankrupt, he shall—

- (a) keep a separate and distinct account of the trading, including, where appropriate, particulars of all local bank account transactions; and
- (b) incorporate in the financial records required to be kept under regulation 25 the total weekly amounts of the receipts and payments made by him in relation to the account kept under paragraph (a).

[E.R. 26]

Retention and delivery of records

28.—(1) All records kept by the trustee under regulations 25 and 27 and any such records received by him from a predecessor in that office shall be retained by him for a period of 6 years following—

- (a) his vacation of office, or
- (b) in the case of the official receiver, his release as trustee under Article 272,

unless he delivers them to another trustee who succeeds him in office.

(2) Where the trustee is succeeded in office by another trustee, the records referred to in paragraph (1) shall be delivered to that successor forthwith, unless the bankruptcy is for practical purposes complete and the successor is the official receiver, in which case the records are only to be delivered to the official receiver if the latter so requests.

[E.R. 27]

Provision of accounts by trustee and audit of accounts

29.—(1) The trustee shall, if required by the Department at any time, send to the Department an account of his receipts and payments as trustee of the bankrupt covering such period as the Department may direct and such account shall, if so required by the Department, be certified by the trustee.

(2) Where the trustee vacates office prior to the holding of the final general meeting of creditors under Article 304, he shall within 14 days of vacating office send to the Department an account of his receipts and payments as trustee for any period not covered by an account previously so sent by him, or if no such account has been sent, an account of his receipts and payments in respect of the whole period of his office.

(3) Where:

- (a) a final general meeting of creditors has been held pursuant to Article 304, or
- (b) a final general meeting is deemed to have been held by virtue of Rule 6.134(5),

the trustee shall send to the Department, in case (a), within 14 days of the holding of the final general meeting of creditors and, in case (b), within 14 days of his report to the court pursuant to Rule 6.134(5), an account of his receipts and payments as trustee which are not covered by any previous account so sent by him, or if no such account has been sent, an account of his receipts and payments in respect of the whole period of his office.

(4) Where a statement of affairs has been submitted under the Order, any account sent under this regulation shall be accompanied by a summary of that statement of affairs and shall show the amount of any assets realised and explain the reasons for any non-realisation of any assets not realised.

(5) Where a statement of affairs has not been submitted under the Order, any account sent under this regulation shall be accompanied by a summary of all known assets and their estimated values and shall show the amounts actually realised and explain the reasons for any non-realisation of any assets not realised.

(6) Any account sent to the Department shall, if it so requires, be audited, but whether or not the Department requires the account to be audited, the trustee shall send to the Department on demand any documents (including vouchers and bank statements) and any information relating to the account.

(7) Any account sent to the Department under this regulation shall be on a form obtainable from the Department for the purpose.

[E.R. 28]

Production and inspection of records

30. The trustee shall produce on demand to the Department, and allow it to inspect, any accounts, books and other records kept by him (including any passed to him by a predecessor in office), and this duty to produce and allow inspection shall extend—

- (a) to producing and allowing inspection at the premises of the trustee; and
- (b) to producing and allowing inspection of any financial records of the kind described in regulation 25(1)(b) prepared by the trustee before 31st January 1997 and kept by him;

and any such demand may—

- (i) require the trustee to produce any such accounts, books or other records to the Department, and allow it to inspect them—

- (A) at the same time as any account is sent to the Department under regulation 29; or
- (B) at any time after such account is sent to the Department; whether or not the Department requires the account to be audited; or
- (ii) where it is made for the purpose of ascertaining whether the provisions of these Regulations relating to the handling of money received by the trustee in the course of carrying out his functions have been or are likely to be complied with, be made at any time, whether or not an account has been sent or should have been sent to the Department under regulation 29 and whether or not the Department has required any account to be audited.

[E.R. 29]

Disposal of bankrupt's books, papers and other records

31. The trustee, on the authorisation of the official receiver, during his tenure of office or on vacating office, or the official receiver while acting as trustee, may at any time sell, destroy or otherwise dispose of the books, papers and other records of the bankrupt.

[E.R. 30]

Payment of unclaimed or undistributed assets, dividends or other money

32. Notwithstanding anything in these Regulations, any money—

- (a) in the hands of the trustee at the date of his vacation of office, or
- (b) which comes into the hands of any former trustee at any time after his vacation of office,

representing, in either case, unclaimed or undistributed assets of the bankrupt or dividends, shall forthwith be paid by him into the Insolvency Account.

[E.R. 31]

Part 4

CLAIMING MONEY PAID INTO THE INSOLVENCY ACCOUNT

Claiming money paid into the Insolvency Account

33.—(1) Any person claiming to be entitled to any money paid into the Insolvency Account may apply to the Department for payment and shall provide such evidence of his claim as the Department may require.

(2) Any person dissatisfied with the decision of the Department in respect of his claim made under this regulation may appeal to the court.

[E.R. 32]

Part 5

REMUNERATION OF OFFICIAL RECEIVER

Official receiver's remuneration while acting as liquidator or trustee calculated as a percentage of the value of assets realised or distributed

34. Subject to regulations 35, 36 and 37, when he is the liquidator of a company or trustee, the official receiver's remuneration for his services as such shall be calculated on the scales in Table 1 of Schedule 1, as a percentage of the money received by him from the realisation of the assets of the company or the bankrupt, as the case may be, (including any Value Added Tax received on the realisation but after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the company or the bankrupt, as the case may be) and a percentage of the value of assets distributed to the creditors of the company or the bankrupt, as the case may be, (including payments made in respect of preferential debts) and, in the case of a company, to contributories.

[E.R. 33]

Limits on official receiver's remuneration as trustee

35.—(1) That part of the official receiver's remuneration for his services as trustee which is calculated on the realisation scale set out in Table 1 of Schedule 1 shall not exceed such sum as is arrived at by:

- (a) applying that scale to such part of the proceeds of the realisation of the bankrupt's assets as is required to pay:
 - (i) the bankruptcy debts to the extent required to be paid by the Rules (ignoring those debts paid otherwise than out of the proceeds of the realisation of the bankrupt's assets or which have been secured to the satisfaction of the court);
 - (ii) the expenses of the bankruptcy other than:
 - (A) fees or the remuneration of the official receiver;
 - (B) any sums spent out of money received in carrying on the business of the bankrupt;
 - (iii) fees payable under the Insolvency (Fees) Order (Northern Ireland) 1991⁽⁴⁾ other than Fee No. 13 and Fee No. 19 in Part II of the Schedule to that Order; and
 - (iv) the remuneration of the official receiver other than remuneration calculated pursuant to regulation 34 by reference to the realisation scale in Table 1 of Schedule 1; and
- (b) deducting from the sum arrived at under sub-paragraph (a) any sum paid in respect of Fee No. 13 in Part II of the Schedule to the Insolvency (Fees) Order (Northern Ireland) 1991.

(2) For the purposes of this regulation the expression "bankruptcy debts" shall include any interest payable by virtue of Article 300(4).

[E.R. 34]

Official receiver's general remuneration while acting as interim receiver, provisional liquidator, liquidator or trustee

36. When he is an interim receiver appointed under Article 259 or the provisional liquidator of a company being wound up or where as official receiver he performs any duty as liquidator or trustee

(4) S.R. 1991 No. 385 amended by S.R. 1992 No. 398 and S.R. 1996 No. 576

for which remuneration is not provided in these Regulations or a fee is not provided under any order made under Article 361, the official receiver's remuneration for the services provided by himself and his officers in that capacity shall be calculated on the total hourly rate as specified in Table 2 in Schedule 1.

[E.R. 35]

Official receiver's remuneration while acting as liquidator or provisional liquidator in respect of the realisation of property charged

37. When he is a liquidator or provisional liquidator, the official receiver's remuneration in respect of the realisation of property of the company—

- (a) for secured creditors (other than a creditor who holds a floating charge on the company's undertaking or property) shall be calculated on the realisation scale set out in Table 1 in Schedule 1 in the manner set out in regulation 34; and
- (b) for creditors who hold a floating charge on the company's undertaking or property shall be calculated on both the scales set out in Table 1 in Schedule 1 and in the manner set out in regulation 34.

[E.R. 36]

Part 6

DEEDS OF ARRANGEMENT

Introductory

38. This Part relates to deeds of arrangement to which Chapter I of Part VIII of the Order applies.

REGISTRATION OF DEEDS, ETC.

Endorsement on copy of a deed of arrangement for filing

39.—(1) Upon every copy of a deed of arrangement which is presented for filing there shall be endorsed by the person who presented it—

- (a) the name of the debtor;
- (b) the date of the deed;
- (c) the date of filing of the deed;
- (d) the total amount of revenue duty with which the deed is stamped; and
- (e) subject to paragraph (2), a certificate signed by the person who presents the copy for filing certifying that the copy is a correct copy of the deed.

(2) The certificate to be endorsed and signed under paragraph (1)(e) may be endorsed and signed by the solicitor of the debtor.

[D.A.R. 6]

Execution of assignment by trustee prior to registration

40. An assignment of property by a debtor to a trustee or assignee for the benefit of his creditors shall not be registered under the Order unless it appears from the assignment that it has been or purports to have been executed, or (if not made by deed) signed by the trustee or assignee; and it shall be the duty of the registrar, before registering such an assignment, to satisfy himself that

the assignment purports to have been duly executed or signed as the case may be by the trustee or assignee thereunder.

[D.A.R. 7]

Certificate of registration on original deed of arrangement

41.—(1) When a deed of arrangement is registered under the Order there shall be endorsed on the original deed a certificate stating that the deed has been duly registered under the Order and the date of registration.

(2) Such certificate shall be sealed with the seal of the registrar.

[D.A.R. 8]

Notice by new trustee of appointment

42. Where a new trustee has been appointed he shall forthwith send to the registrar a notice of his appointment, giving his full name and address, and showing how and when the appointment has been made, and the registrar shall forthwith file the said notice.

[D.A.R. 27]

Notice to registrar of order declaring deed of arrangement to be void

43. Where, on the application of a creditor, the court by order declares a deed of arrangement to be void under Article 221(3), the creditor shall forthwith send a copy of the order to the registrar.

STATEMENTS, ACCOUNTS AND RECORDS

Financial records

44.—(1) The trustee shall prepare and keep—

- (a) separate financial records in respect of each deed of arrangement; and
- (b) such other financial records as are required to explain the receipts and payments entered in the records described in sub-paragraph (a) or regulation 45 including an explanation of the source of any receipts and the destination of any payments;

and shall, subject to regulation 45 as to trading accounts, from day to day enter in those records all the receipts and payments made by him.

(2) The trustee shall submit the financial records to be kept under paragraph (1) to any creditor when required.

Trustee carrying on business

45. Where the trustee carries on any business of the debtor, he shall—

- (a) keep a separate and distinct account of the trading, including, where appropriate, particulars of all bank account transactions; and
- (b) incorporate in the financial records required to be kept under regulation 44 the total weekly amounts of the receipts and payments made by him in relation to the account kept under paragraph (a).

Audit of trustee's accounts

46. Any account sent to the Department under regulation 4(1) or (4) of the Deeds of Arrangement Regulations (Northern Ireland) 1996(5) shall, if the Department so requires, be audited and where, after the account has been sent to it, the Department requires the account to be audited, the trustee shall send to the Department on demand any documents (including vouchers and bank statements) and any information relating to the account.

Dividends

47.—(1) Where the trustee distributes dividends or instalments of composition under a deed of arrangement, he must enter the total amount of each dividend or instalment of composition in the records to be kept under regulation 44 in one sum, and he shall forward to the Department—

- (a) with each account in which a charge in respect of dividend or composition appears a statement showing the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor, distinguishing in such statement the dividends or instalments of composition paid and those remaining unpaid; and
- (b) with his final account a complete statement in similar form showing the amount of the claim and the full amount of dividend or composition paid to or reserved for each creditor.

(2) In this regulation a reference to an account is to an account sent to the Department under regulation 4(1) or (4) of the Deeds of Arrangement Regulations (Northern Ireland) 1996.

[D.A.R. 36]

Production and inspection of records

48. The trustee shall produce on demand to the Department, and allow it to inspect, any accounts, books and other records kept by him, and this duty to produce and allow inspection shall extend—

- (a) to producing and allowing inspection at the premises of the trustee; and
- (b) to producing and allowing inspection of any financial records of the kind described in regulation 44(1)(b) prepared by the trustee and kept by him;

and any such demand may require the trustee to produce any such accounts, books or other records to the Department, and allow it to inspect them—

- (i) at the same time as any account is sent to the Department under regulation 4(1) or (4) of the Deeds of Arrangement Regulations (Northern Ireland) 1996, or any certificate under regulation 4(5) of those Regulations is sent to the Department; or
- (ii) at any time after such an account or certificate is sent to the Department;

whether or not the Department requires any account to be audited.

FORMS

Forms

49. The forms numbered and specified in column 1 of the Table shall be used for the purposes of the Articles specified opposite thereto in column 2 of the Table.

TABLE

<i>Column 1</i> Form		<i>Column 2</i> Article
1	Affidavit of Execution by Debtor	211(1)(b)
2	Affidavit of Execution where Deed is first Executed by a Creditor	211(1)(b)
3	Debtor's Affidavit	211(1)(c)
4	Assent of Creditor to Deed	215(3)
5	Statutory Declaration by Trustee to be Filed with Registrar as to Assents of Creditors	215(4)
6	Certificate by Trustee to be Filed with Registrar that Creditors have Dispensed with his Giving Security	221(2)

Part 7

TRANSITIONAL AND SAVING PROVISIONS

Transitional and saving provisions

50. These Regulations shall have effect subject to the transitional and saving provisions set out in Schedule 3.

[E.R. 37]

Sealed with the Official Seal of the Department of Economic Development on 10th December 1996.

A. L. Brown
Assistant Secretary