

## SCHEDULES

### SCHEDULE 8

#### MORATORIUMS IN NORTHERN IRELAND: TEMPORARY PROVISION

#### PART 3

#### TEMPORARY RULES

##### *Introductory*

- 12 Paragraphs 13 to 54 cease to have effect at the end of the relevant period, subject to paragraph 3.

##### *Content of documents relating to the obtaining or extending of a moratorium: general*

- 13 A notice or statement under Article 13BC(1), 13BE(2), 13CA(1), 13CB(1) or 13CD(2) of the Insolvency (Northern Ireland) Order 1989 must state—
- (a) the provision under which it is given or made,
  - (b) the nature of the notice or statement,
  - (c) the date of the notice or statement, and
  - (d) the identification details for the company to which it relates.

##### *Authentication of documents relating to obtaining or extending moratorium: general*

- 14 (1) A notice or statement under Article 13BC(1), 13CA(1), 13CB(1) or 13CD(2) of the Insolvency (Northern Ireland) Order 1989 must be authenticated by or on behalf of the person giving the notice or making the statement (see paragraph 49).
- (2) A notice under Article 13BE(2)(a) of the Insolvency (Northern Ireland) Order 1989 must be authenticated by the monitor (see paragraph 49).

##### *Notice that directors wish to obtain a moratorium*

- 15 A notice under Article 13BC(1)(a) of the Insolvency (Northern Ireland) Order 1989 must state the company's address for service.

##### *Proposed monitor's statement and consent to act*

- 16 (1) A statement under Article 13BC(1)(b) of the Insolvency (Northern Ireland) Order 1989 must be headed "Proposed monitor's statement and consent to act" and must contain the following—
- (a) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
  - (b) the proposed monitor's IP number,

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- (c) the name of the relevant recognised professional body which is the source of the proposed monitor’s authorisation to act in relation to the company, and
- (d) a statement that the proposed monitor consents to act as monitor in relation to the company.

(2) In this paragraph “IP number” means the identifying number or reference issued to the insolvency practitioner by a professional body recognised under Article 350 of the Insolvency (Northern Ireland) Order 1989.

*Timing of statements for obtaining moratorium*

17 Each statement under Article 13BC(1)(b) to (e) of the Insolvency (Northern Ireland) Order 1989 must be made within the period of 5 days ending with the day on which the documents under Article 13BC(1)(a) to (e) are filed with the High Court (or, if the documents are filed on different days, the last of those days).

*Notice by monitor where moratorium comes into force*

18 A notice under Article 13BE(2) of the Insolvency (Northern Ireland) Order 1989 must—

- (a) state that it is given by the monitor acting in that capacity, and
- (b) state the name and contact details of the monitor.

*Notice that directors wish to extend a moratorium*

19 A notice under Article 13CA(1)(a) or 13CB(1)(a) of the Insolvency (Northern Ireland) Order 1989 must state the company’s address for service.

*Extension under Article 13CA or 13CB of the Insolvency (Northern Ireland) Order 1989: notices and statements*

20 A statement by the monitor under Article 13CA(1)(d) or 13CB(1)(d) of the Insolvency (Northern Ireland) Order 1989 must contain contact details of the monitor.

*Timing of statements for extension under Article 13CA or 13CB*

21 Each statement under Article 13CA(1)(b) to (d) or 13CB(1)(b) to (e) of the Insolvency (Northern Ireland) Order 1989 must be made within the period of 3 days ending with the day on which the documents under Article 13CA(1)(a) to (d) or 13CB(1)(a) to (e) are filed with the High Court (or, if the documents are filed on different days, the last of those days).

*Obtaining creditor consent at meeting*

22 If a meeting under Article 13CC(2) of the Insolvency (Northern Ireland) Order 1989 is held during the relevant period (within the meaning given by paragraph 1), paragraph 3 of Schedule 14 applies to the meeting as if it were a meeting within subparagraph (2) of that paragraph (even if the meeting is not held within the relevant period within the meaning of that Schedule).

23 (1) In their application for the purposes of a decision by pre-moratorium creditors to consent to a revised end date for a moratorium under Article 13CC of the Insolvency

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(Northern Ireland) Order 1989, the Insolvency Rules have effect with the following modifications.

- (2) References to creditors are to be read as references to the pre-moratorium creditors.
- (3) The following rules have effect with the further modifications set out in paragraphs 24 to 30—
- (a) Rule 4.061;
  - (b) Rule 4.062;
  - (c) Rule 4.065;
  - (d) Rule 4.068;
  - (e) Rule 4.070;
  - (f) Rule 4.073;
  - (g) Rule 4.077.
- 24 Rule 4.061 has effect as if for paragraphs (1) to (6) there were substituted—
- “(1) For the purposes of Rules 4.061 to 4.077 the directors summoning a meeting of pre-moratorium creditors under Article 13CC of the Order are referred to (collectively) as “the convener”.
  - (2) When a venue for such a meeting has been fixed, notice of it must be given by the convener to every pre-moratorium creditor who is known to the convener.
  - (3) Notice of the meeting must be given at least 5 days before the date fixed for it, and must specify the purpose of the meeting.
  - (4) The notice shall state that proofs and (if applicable) proxies shall be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order for pre-moratorium creditors to be entitled to vote at the meeting.”
- 25 Rule 4.062 has effect as if for paragraphs (2) to (5) there were substituted—
- “(2) The convener must nominate a person to act as chairman.”
- 26 Rule 4.065 has effect as if, in paragraph (2), for “21 days” there were substituted “5 days”.
- 27 Rule 4.068 has effect as if for it there were substituted—
- “4.068. The expenses of summoning and holding a meeting of pre-moratorium creditors at the instance of the directors of the company are to be paid by the company.”
- 28 Rule 4.070 has effect as if for it (and its heading) there were substituted—

### **Requisite majorities**

- “4.070(1) A decision to consent to a revised end date for a moratorium under Article 13CC of the Order is made if, of those voting—
- (a) a majority (in value) of the pre-moratorium creditors who are secured creditors vote in favour of the proposed decision, and
  - (b) a majority (in value) of the pre-moratorium creditors who are unsecured creditors vote in favour of the proposed decision.

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- (2) But a decision to consent to a revised end date for a moratorium under Article 13CC of the Order is not made if, of those voting, either—
- (a) a majority of the pre-moratorium creditors who are unconnected secured creditors vote against the proposed end date, or
  - (b) a majority of the pre-moratorium creditors who are unconnected unsecured creditors vote against the proposed end date.
- (3) For the purposes of paragraph (2)—
- (a) a creditor is unconnected unless the convener or chair decides that the creditor is connected, and
  - (b) the total value of the unconnected creditors is the total value of those unconnected creditors whose claims have been admitted for voting.”
- 29 Rule 4.073 has effect as if—
- (a) after paragraph (3) there were inserted—
 

“(3A) Votes are calculated according to the amount of each pre-moratorium creditor’s claim at the date of the meeting.”;
  - (b) for paragraph (4) there were substituted—
 

“(4) A debt of an unliquidated or unascertained amount is to be valued at £1 for the purposes of voting unless the convener or the chairman decides to put a higher value on it.”;
  - (c) for paragraph (5) there were substituted—
 

“(5) If a debt is partly or wholly secured the value of the debt for voting purposes is its full value without deduction of the value of the security.”;
  - (d) for paragraph (6) there were substituted—
 

“(6) A pre-moratorium creditor under a hire-purchase agreement is entitled to vote in respect of the amount of the debt due and payable by the company at the date of the meeting.

(6A) In calculating the amount of any debt for the purpose of paragraph (6), no account is to be taken of any amount attributable to the exercise of any right under the relevant agreement so far as the right has become exercisable solely by virtue of a moratorium for the company coming into force.”
- 30 Rule 4.077 has effect as if—
- (a) in paragraph (1) for “liquidation” there were substituted “moratorium”;
  - (b) paragraph (4) were omitted.

*Content of application to the High Court for extension of moratorium*

- 31 (1) An application by the directors of a company for the extension of a moratorium under Article 13CD of the Insolvency (Northern Ireland) Order 1989 must state—
- (a) that it is made under that Article,
  - (b) the length of the extension sought,
  - (c) identification details for the company to which the application relates, and
  - (d) the company’s address for service.

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- (2) The application must be authenticated by or on behalf of the directors (see paragraph 49).

*Timing of statements accompanying application to High Court for extension of moratorium*

- 32 A statement under Article 13CD(2) must be made within the period of 3 days ending with the day on which the application under that Article is made.

*Notices about change in end of moratorium*

- 33 (1) A notice under Article 13CH(1) of the Insolvency (Northern Ireland) Order 1989 must be given within the period of 5 days beginning with the day on which the duty to give the notice arises.

- (2) The notice must state—

- (a) the name of the company to which it relates, and
- (b) the provision by virtue of which the moratorium was extended or came to an end.

- 34 (1) A notice under Article 13CH(2) or (3) of the Insolvency (Northern Ireland) Order 1989 must be given within the period of 5 days beginning with the day on which the duty to give the notice arises.

- (2) The notice must state—

- (a) the provision under which it is given,
- (b) the nature of the notice,
- (c) the date of the notice,
- (d) that it is given by the monitor acting in that capacity,
- (e) the name and contact details of the monitor, and
- (f) the identification details for the company to which it relates.

- (3) A notice under Article 13CH(2) or (3) of the Insolvency (Northern Ireland) Order 1989 that is given to the registrar must be authenticated by or on behalf of the monitor (see paragraph 49).

- 35 Where a moratorium comes to an end under Article 13CG of the Insolvency (Northern Ireland) Order 1989 because the company has entered into a relevant insolvency procedure within the meaning of that Article, the notices under Article 13CH(1) and (2) must state—

- (a) the date on which the company entered into the relevant insolvency procedure, and
- (b) the name and contact details of the supervisor of the voluntary arrangement, the administrator or the liquidator.

- 36 (1) A notice under Article 13CH(4) of the Insolvency (Northern Ireland) Order 1989 must be given within the period of 3 business days beginning with the day on which the notice under Article 13ED(1) of that Order is filed with the High Court.

- (2) The notice under Article 13CH(4) of that Order must be accompanied by the notice that the monitor has filed with the High Court under Article 13ED(1) of that Order.

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*Notification by directors of insolvency proceedings etc*

- 37 (1) A notice under Article 13DF(1) of the Insolvency (Northern Ireland) Order 1989 must be given before the period of 3 days ending with the day on which the step mentioned there is taken.
- (2) A notice under Article 13DF(2) of the Insolvency (Northern Ireland) Order 1989 must be given within the period of 3 days beginning with the day on which the duty to give the notice arises.

*Notice of termination of moratorium*

- 38 (1) A notice under Article 13ED(1) of the Insolvency (Northern Ireland) Order 1989 must be filed with the High Court as soon as practicable after the duty in that paragraph arises.
- (2) The notice must state—
- (a) the provision under which it is given,
  - (b) the nature of the notice,
  - (c) the date of the notice,
  - (d) the name and contact details of the monitor,
  - (e) the identification details for the company to which it relates,
  - (f) the grounds on which the moratorium is being terminated,
  - (g) the monitor’s reasons for concluding that those grounds are made out, and
  - (h) the date on which the monitor concluded that those grounds were made out.
- (3) The notice must be authenticated by or on behalf of the monitor (see paragraph 49).

*Termination of moratorium under Article 13ED(1)(d) of the Insolvency (Northern Ireland) Order 1989*

- 39 For the purposes of deciding whether to bring a moratorium to an end under Article 13ED(1)(d) of the Insolvency (Northern Ireland) Order 1989 the monitor must disregard—
- (a) any debts that the monitor has reasonable grounds for thinking are likely to be paid within 5 days of the decision, and
  - (b) any debts in respect of which the creditor has agreed to defer payment until a time that is later than the decision.

*Replacement of monitor or additional monitor: statement and consent to act*

- 40 (1) A statement under Article 13EE(4) of the Insolvency (Northern Ireland) Order 1989 must be headed “Proposed monitor’s statement and consent to act” and must contain the following—
- (a) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
  - (b) the proposed monitor’s IP number,
  - (c) the name of the relevant recognised professional body which is the source of the proposed monitor’s authorisation to act in relation to the company, and
  - (d) a statement that the proposed monitor consents to act as monitor in relation to the company.

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- (2) The statement must be made within the period of 5 days ending with the day on which it is filed with the High Court.
- (3) In this paragraph “IP number” means the identifying number or reference issued to the insolvency practitioner by a professional body recognised under Article 350 of the Insolvency (Northern Ireland) Order 1989.

#### *Replacement of monitor or additional monitor: notification*

- 41 (1) A notice under Article 13EE(8) of the Insolvency (Northern Ireland) Order 1989 must state—
- (a) the provision under which it is given,
  - (b) the nature of the notice,
  - (c) the date of the notice,
  - (d) the identification details for the company to which it relates,
  - (e) that it is given by the monitor acting in that capacity, and
  - (f) the name and contact details of the monitor.
- (2) The notice must be authenticated by the monitor (see paragraph 49).

#### *Challenge to monitor’s remuneration*

- 42 (1) An administrator or liquidator of a company may apply to the High Court on the ground that remuneration charged by the monitor in relation to a prior moratorium for the company under Part 1A of the Insolvency (Northern Ireland) Order 1989 was excessive.
- (2) An application under this paragraph may not be made after the end of the period of 2 years beginning with the day after the moratorium ends.
- (3) On an application under this paragraph the Court may—
- (a) dismiss the application,
  - (b) order the monitor to repay some or all of the remuneration, or
  - (c) make such other order as it thinks fit.
- (4) The costs of an application under this paragraph are, unless the Court orders otherwise, to be paid as an expense of the administration or liquidation.

#### *Challenge to directors’ actions: meeting*

- 43 Where the High Court makes an order by virtue of Article 13FB(4)(c) of the Insolvency (Northern Ireland) Order 1989 requiring the summoning of a meeting of a company’s creditors, the following provisions of the Insolvency Rules apply for the purposes of that meeting to the extent set out in the Court’s order and subject to any modifications set out in the Court’s order—
- (a) Rules 4.061 to 4.077 (meetings);
  - (b) Part 8 (proxies);
  - (c) Rule 12.05 (quorum).

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*Priority of moratorium debts etc in subsequent winding up*

- 44 (1) Where Article 148A of the Insolvency (Northern Ireland) Order 1989 applies, the moratorium debts and pre-moratorium debts mentioned in paragraph (2)(b) of that Article are payable in the following order of priority—
- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for Article 197B(3) or (4) of that Order, the supplier would not have had to make that supply;
  - (b) wages or salary arising under a contract of employment;
  - (c) other debts or other liabilities apart from the monitor’s remuneration or expenses;
  - (d) the monitor’s remuneration or expenses.
- (2) In this paragraph “wages or salary” has the same meaning as in Article 13D of the Insolvency (Northern Ireland) Order 1989.

*Priority of moratorium debts etc in subsequent administration*

- 45 (1) Where paragraph 65A(1) of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 applies, the moratorium debts and pre-moratorium debts mentioned in paragraph 65A(2) of that Schedule are payable in the following order of priority—
- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for Article 197B(3) or (4) of that Order, the supplier would not have had to make that supply;
  - (b) wages or salary arising under a contract of employment;
  - (c) other debts or other liabilities apart from the monitor’s remuneration or expenses;
  - (d) the monitor’s remuneration or expenses.
- (2) In this paragraph “wages or salary” has the same meaning as in Article 13D of the Insolvency (Northern Ireland) Order 1989.

*Prescribed format of documents*

- 46 (1) Rule 12.04 of the Insolvency Rules applies to applications and statements referred to in Part 1A of the Insolvency (Northern Ireland) Order 1989 as it applies to notices under that Order.
- (2) The requirement in Rule 12.04 that a notice, application or statement required or authorised by or under the Order or the Insolvency Rules must be in writing is satisfied if the notice, application or statement is in electronic form.
- (3) But sub-paragraph (2) does not apply in relation to the filing of a notice, application or statement with the High Court.
- (4) A document in electronic form must be capable of being—
- (a) read by the recipient in electronic form, and
  - (b) reproduced by the recipient in hard-copy form.
- 47 (1) This paragraph applies where a provision of this Part of this Schedule sets out requirements as to the contents of a document.
- (2) Any title required by the provision must appear at the beginning of the document.



- (3) Any other contents required by the provision (or provisions where more than one applies to a particular document) must be provided in the order listed in the provision (or provisions) or in another order which the maker of the document considers would be convenient for the intended recipient.

- 48 Where a provision of this Part of this Schedule sets out the required contents of a document, the document may depart from the required contents if—
- (a) the circumstances require such a departure (including where the requirement is not applicable in the particular case), or
  - (b) the departure (whether or not intentional) is immaterial.

#### *Authentication of applications, notices and statements*

- 49 (1) This paragraph sets out how an application, notice or statement is to be authenticated for the purposes of this Part of this Schedule.
- (2) An application, notice or statement in electronic form is authenticated—
- (a) if the identity of the sender is confirmed in a manner specified by the recipient, or
  - (b) where the recipient has not so specified, if the communication contains or is accompanied by a statement of the identity of the sender and the recipient has no reason to doubt the truth of that statement.
- (3) An application, notice or statement in hard-copy form is authenticated if it is signed.
- (4) If an application, notice or statement is authenticated by the signature of an individual on behalf of—
- (a) a body of persons, the document must also state the position of that individual in relation to the body;
  - (b) a body corporate of which the individual is the sole member, the document must also state that fact.

#### *Modifications to the Insolvency Rules*

- 50 (1) For the purposes of proceedings under Part 1A of the Insolvency (Northern Ireland) Order 1989 and proceedings under this Part of this Schedule the Insolvency Rules have effect with—
- (a) the modifications set out in sub-paragraphs (3) to (13), and
  - (b) any other necessary modifications.
- (2) Sub-paragraph (1)(b) is subject to—
- (a) paragraphs 23 to 30 and 46 of this Schedule;
  - (b) any modifications set out in an order under paragraph 43 of this Schedule.
- (3) Rule 0.2 has effect as if, in the definition of “insolvency proceedings”, after “the Order” there were inserted “, Part 3 of Schedule 8 to the Corporate Insolvency and Governance Act 2020”.
- (4) Rule 7.01 has effect as if for “Parts II to VII of the Order” there were substituted “Part 1A of the Order or Part 3 of Schedule 8 to the Corporate Insolvency and Governance Act 2020”.

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- (5) Rule 7.07(1)(a) has effect as if after “the Order” there were inserted “or Part 3 of Schedule 8 to the Corporate Insolvency and Governance Act 2020”.
- (6) Rule 7.08 has effect in relation to a regulated company (within the meaning of Article 13H of the Insolvency (Northern Ireland) Order 1989) as if it also required the application to be served on the appropriate regulator (within the meaning of that Article).
- (7) Rule 7.12(1)(b) has effect as if after sub-paragraph (v) there were inserted—  
     “(vi) a monitor in relation to a moratorium.”
- (8) Rule 7.13B has effect as if—
  - (a) the references to an office-holder included a monitor in relation to a moratorium, and
  - (b) after paragraph (2)(d) there were inserted “, or  
     “(e) monitor in relation to a moratorium.”
- (9) Rule 7.13C has effect as if after each of paragraph (2)(f) and (3)(f) there were inserted  
     “; and  
     (g) Article 13EE (replacement of monitor or appointment of additional monitor).”
- (10) Rule 7.36(2) has effect as if it required the applicant to serve a sealed copy of the application on the monitor and the company to which the moratorium relates.
- (11) Omit Rules 7.07A and 7.08A.
- (12) Rule 7.27 has effect as if paragraph (2)(a) included a reference to proceedings under Part 1A of the Insolvency (Northern Ireland) Order 1989 or this Part of this Schedule.
- (13) After Rule 12.23 insert—

### **Court orders**

- “12.24. Notwithstanding any requirement in these Rules as to the contents of a court order the court may make such other order or in such form as the court thinks fit.”

### *Identification details for a company*

- 51 (1) Where a provision of this Part of this Schedule requires a document to contain identification details for a company that is registered under the Companies Act 2006 in Northern Ireland, the following information must be given—
  - (a) the company’s registered name;
  - (b) its registered number.
- (2) Where a provision of this Part of this Schedule requires a document to contain identification details for a company that has registered particulars under section 1046(1) of the Companies Act 2006 (registered overseas companies), the following information must be given—
  - (a) the name registered by the company under section 1047 of that Act,
  - (b) the number under which it is registered, and
  - (c) the country or territory in which it is incorporated.

- (3) Where a provision of this Part of this Schedule requires a document to contain identification details for an unregistered company that does not come within subparagraph (2) the following information must be given—
- (a) the company’s name, and
  - (b) the postal address of any principal place of business.

*Contact details of a monitor or other office-holder*

- 52 Where a provision of this Part of this Schedule requires a document to contain contact details of a monitor or other office-holder, the following information must be given—
- (a) a postal address for the monitor or office-holder, and
  - (b) either an email address, or a telephone number, through which the monitor may be contacted.

*“The Insolvency Rules”*

- 53 In this Part of this Schedule “the Insolvency Rules” means the [Insolvency Rules \(Northern Ireland\) 1991 \(S.R. \(N.I.\) 1991/364\)](#).

*Interpretation: general*

- 54 Expressions used in this Part of this Schedule are to be construed as if this Part of this Schedule were contained in Part 1A of the Insolvency (Northern Ireland) Order 1989.