STATUTORY RULES OF NORTHERN IRELAND

1991 No. 364

The Insolvency Rules (Northern Ireland) 1991

PARTS 1 TO 4COMPANY INSOLVENCY; COMPANIES WINDING UP

PART 1

COMPANY VOLUNTARY ARRANGEMENTS

CHAPTER 1

PRELIMINARY

Scope of this Part; interpretation

1.01.—(1) This Part applies where, pursuant to Part II of the Order, it is intended to make, and there is made, a proposal to a company and its creditors for a voluntary arrangement.

(2) In this Part—

(a) Chapter 2 applies where the proposal for a voluntary arrangement is made by the directors of the company, and neither is the company in liquidation, nor is an administration order (under Part III of the Order) in force in relation to it;

(b) Chapter 3 applies where the company is in liquidation or an administration order is in force, and the proposal is made by the liquidator or (as the case may be) the administrator, he in either case being the nominee for the purpose of the proposal;

(c) Chapter 4 applies in the same case as Chapter 3, but where the nominee is an insolvency practitioner other than the liquidator or the administrator; and

(d) Chapters 5 and 6 apply in all the 3 cases mentioned in sub-paragraphs (a) to (c).

(3) In Chapters 3, 4 and 5, the liquidator or the administrator is referred to as "the responsible insolvency practitioner".

[E.R.1.1]

CHAPTER 2

PROPOSAL BY DIRECTORS

Preparation of proposal

1.02. The directors shall prepare for the intended nominee a proposal on which (with or without amendments to be made under Rule 1.03) to make his report to the court under Article 15.

[E.R.1.2]

Contents of proposal

1.03.—(1) The directors' proposal shall provide a short explanation why, in their opinion, a voluntary arrangement under Part II of the Order is desirable, and give reasons why the company's creditors may be expected to concur with such an arrangement.

(2) The following matters shall be stated, or otherwise dealt with, in the directors' proposal—

(a) the following matters, so far as within the directors' immediate knowledge—

(i) the company's assets, with an estimate of their respective values,

(ii) the extent (if any) to which the assets are charged in favour of creditors,

(iii) the extent (if any) to which particular assets are to be excluded from the voluntary arrangement;

(b) particulars of any property, other than assets of the company itself, which is proposed to be included in the arrangement, the source of such property and the terms on which it is to be made available for inclusion;

(c) the nature and amount of the company's liabilities (so far as within the directors' immediate knowledge), the manner in which they are proposed to be met, modified, postponed or otherwise dealt with by means of the arrangement, and (in particular)—

(i) how it is proposed to deal with preferential creditors (defined in Article 17(7)) and creditors who are, or claim to be, secured,

(ii) how persons connected with the company (being creditors) are proposed to be treated under the arrangement, and

(iii) whether there are, to the directors' knowledge, any circumstances giving rise to the possibility, in the event that the company should go into liquidation, of claims under—

Article 202 (transactions at an undervalue),

Article 203 (preferences),

Article 206 (extortionate credit transactions), or Article 207 (floating charges invalid);

and, where any such circumstances are present, whether, and if so how, it is proposed under the voluntary arrangement to make provision for wholly or partly indemnifying the company in respect of such claims;

(d) whether any, and if so what, guarantees have been given of the company's debts by other persons, specifying which (if any) of the guarantors are persons connected with the company;

(e) the proposed duration of the voluntary arrangement;

(f) the proposed dates of distributions to creditors, with estimates of their amounts;

(g) the amount proposed to be paid to the nominee (as such) by way of remuneration and expenses;

(h) the manner in which it is proposed that the supervisor of the arrangement should be remunerated, and his expenses defrayed;

(j) whether, for the purposes of the arrangement, any guarantees are to be offered by directors, or other persons, and whether (if so) any security is to be given or sought;

(k) the manner in which funds held for the purposes of the arrangment are to be banked, invested or otherwise dealt with pending distribution to creditors;

(l) the manner in which funds held for the purpose of payment to creditors, and not so paid on the termination of the arrangement, are to be dealt with;

(m) the manner in which the business of the company is proposed to be conducted during the course of the arrangement;

(n) details of any further credit facilities which it is intended to arrange for the company, and how the debts so arising are to be paid;

(o) the functions which are to be undertaken by the supervisor of the arrangement; and

(p) the name, address and qualification of the person proposed as supervisor of the voluntary arrangement, and confirmation that he is (so far as the directors are aware) qualified to act as an insolvency practitioner in relation to the company.

(3) With the agreement in writing of the nominee, the director's proposal may be amended at any time up to delivery of the former's report to the court under Article 15(2).

[E.R.1.3]

Notice to intended nominee

1.04.—(1) The directors shall give to the intended nominee written notice of their proposal.

(2) The notice, accompanied by a copy of the proposal, shall be delivered either to the intended nominee himself, or to a person authorised to take delivery of documents on his behalf.

(3) If the intended nominee agrees to act, he shall cause a copy of the notice to be endorsed to the effect that it has been received by him on a specified date; and the period of 28 days referred to in Article 15(2) then runs from that date.

(4) The copy of the notice so endorsed shall be returned by the nominee forthwith to the directors at an address specified by them in the notice for that purpose.

[E.R.1.4]

Statement of affairs

1.05.—(1) The directors shall, within 7 days after their proposal is delivered to the nominee, or within such longer time as he may allow, deliver to him a statement of the company's affairs.

(2) The statement shall comprise the following particulars (supplementing or amplifying, so far as is necessary for clarifying the state of the company's affairs, those already given in the directors' proposal)—

(a) a list of the company's assets, divided into such categories as are appropriate for easy identification, with estimated values assigned to each category;

(b) in the case of any property on which a claim against the company is wholly or partly secured, particulars of the claim and its amount, and of how and when the security was created;

(c) the names and addresses of the company's preferential creditors (defined in Article 17(7)), with the amounts of their respective claims;

(d) the names and addresses of the company's unsecured creditors, with the amounts of their respective claims;

(e) particulars of any debts owed by or to the company to or by persons connected with it;

(f) the names and addresses of the company's members, with details of their respective shareholdings;

(g) such other particulars (if any) as the nominee may in writing require to be furnished for the purposes of making his report to the court on the directors' proposal.

(3) Subject to paragraph (4), the statement of affairs shall be made up to a date not earlier than 2 weeks before the date of the notice to the nominee under Rule 1.04.

(4) The nominee may allow an extension of that period to the nearest practicable date (not earlier than 2 months before the date of the notice under Rule 1.04); and if he does so, he shall give his reasons in his report to the court on the directors' proposal.

(5) The statement shall be certified as correct, to the best of their knowledge and belief, by two or more directors of the company, or by the company secretary and at least one director (other than the secretary himself).

[E.R.1.5]

Additional disclosure for assistance of nominee

1.06.—(1) If it appears to the nominee that he cannot properly prepare his report on the basis of information in the directors' proposal and statement of affairs, he may call on the directors to provide him with—

(a) further and better particulars as to the circumstances in which, and the reasons why, the company is insolvent or (as the case may be) threatened with insolvency;

(b) particulars of any previous proposals which have been made in respect of the company under Part II of the Order;

(c) any further information with respect to the company's affairs which the nominee thinks necessary for the purposes of his report.

(2) The nominee may call on the directors to inform him, with respect to any person who is, or at any time in the 2 years preceding the notice under Rule 1.04 has been, a director or officer of the company, whether and in what circumstances (in those 2 years or previously) that person—

(a) has been concerned in the affairs of any other company (whether or not incorporated in Northern Ireland) which has become insolvent, or

(b) has himself been adjudged bankrupt or entered into an arrangement with his creditors.

(3) For the purpose of enabling the nominee to consider their proposal and prepare his report on it, the directors must give him access to the company's accounts and records.

[E.R.1.6]

Nominee's report on the proposal

1.07.—(1) With his report to the court under Article 15 the nominee shall deliver—

(a) a copy of the directors' proposal (with amendments, if any, authorised under Rule 1.03(3)); and

(b) a copy or summary of the company's statement of affairs.

(2) If the nominee makes known his opinion that meetings of the company and its creditors should be summoned under Article 16, his report shall have annexed to it his comments on the proposal.

(3) If his opinion is otherwise than under paragraph (2), he shall give his reasons for that opinion.

(4) The court shall cause the nominee's report to be endorsed with the date on which it is filed in court. Any director, member or creditor of the company is entitled, at all reasonable times on any business day, to inspect the file.

(5) The nominee shall send a copy of his report, and of his comments (if any), to the company.

[E.R.1.7]

Replacement of nominee

1.08. Where any person intends to apply to the court under Article 15(4) for the nominee to be replaced, he shall give to the nominee and the proposed new nominee at least 7 days' notice of his application, together with a copy of the supporting affidavit.

[E.R.1.8]

Summoning of meetings under Article 16

1.09.—(1) If in his report the nominee states that in his opinion meetings of the company and its creditors should be summoned to consider the directors' proposal, the date on which the meetings are to be held shall be not less than 14, nor more than 28, days from that on which the nominee's report is filed in court under Rule 1.07.

(2) Notices calling the meetings shall be sent by the nominee, at least 14 days before the day fixed for them to be held—

(a) in the case of the creditors' meeting, to all the creditors specified in the statement of affairs and any other creditors of the company of whom he is otherwise aware; and

(b) in the case of the meeting of members of the company, to all persons who are, to the best of the nominee's belief, members of it.

(3) Each notice sent under this Rule shall state that the nominee's report under Article 15 has been filed in court and shall state the effect of Rule 1.19(1), (3) and (4) (requisite majorities (creditors)); and with each notice there shall be sent—

(a) a copy of the directors' proposal;

(b) a copy of the statement of affairs or, if the nominee thinks fit, a summary of it (the summary to include a list of creditors and the amount of their debts); and

(c) the nominee's comments on the proposal.

[E.R.1.9]

CHAPTER 3

PROPOSAL BY ADMINISTRATOR OR LIQUIDATOR (HIMSELF THE NOMINEE)

Preparation of proposal

1.10.—(1) The responsible insolvency practitioner's proposal shall specify—

(a) all such matters as under Rule 1.03 the directors of the company would be required to include in a proposal by them, with the addition, where the company is subject to an administration order, of the names and addresses of the company's preferential creditors (defined in Article 17(7)), with the amounts of their respective claims, and

(b) such other matters (if any) as the responsible insolvency practitioner considers appropriate for ensuring that members and creditors of the company are enabled to reach an informed decision on the proposal.

(2) Where the company is being wound up by the court, the responsible insolvency practitioner shall give notice of the proposal to the official receiver.

[E.R.1.10]

Summoning of meetings under Article 16

1.11.—(1) The responsible insolvency practitioner shall fix a venue for the creditors' meeting and the company meeting, and give at least 14 days' notice of the meetings—

(a) in the case of the creditors' meeting, to all the creditors specified in the company's statement of affairs, and to any other creditors of whom the responsible insolvency practitioner is aware; and

(b) in the case of the company meeting, to all persons who are, to the best of his belief, members of the company.

(2) Each notice sent out under this Rule shall state the effect of Rule 1.19(1), (3) and (4) (requisite majorities (creditors)); and with it there shall be sent—

(a) a copy of the responsible insolvency practitioner's proposal, and

(b) a copy of the statement of affairs or, if he thinks fit, a summary of it (the summary to include a list of creditors and the amounts of their debts).

[E.R.1.11]

CHAPTER 4

PROPOSAL BY ADMINISTRATOR OR LIQUIDATOR (ANOTHER INSOLVENCY PRACTITIONER THE NOMINEE)

Preparation of proposal and notice to nominee

1.12.—(1) The responsible insolvency practitioner shall give notice to the intended nominee, and prepare his proposal for a voluntary arrangement, in the same manner as is required of the directors, in the case of a proposal by them, under Chapter 2.

(2) Rule 1.02 applies to the responsible insolvency practitioner as it applies to the directors; and Rule 1.04 applies as regards the action to be taken by the nominee.

(3) The content of the proposal shall be as required by Rule 1.03 (and, where relevant, Rule 1.10), reading references to the directors as referring to the responsible insolvency practitioner.

(4) Rule 1.06 applies in respect of the information to be furnished to the nominee, reading references to the directors as referring to the responsible insolvency practioner.

(5) With the proposal the responsible insolvency practioner shall provide a copy of the company's statement of affairs.

(6) Where the company is being wound up by the court, the responsible insolvency practitioner shall send a copy of the proposal to the official receiver, accompanied by the name and address of the insolvency practitioner who has agreed to act as nominee.

(7) Rules 1.07 to 1.09 apply as regards a proposal under this Chapter as they apply to a proposal under Chapter 2.

[E.R.1.12]

CHAPTER 5

PROCEEDINGS ON A PROPOSAL MADE BY THE DIRECTORS, OR BY THE ADMINISTRATOR, OR BY THE LIQUIDATOR

SECTION A: MEETINGS OF COMPANY'S CREDITORS AND MEMBERS

Summoning of meetings

1.13.—(1) Subject to paragraphs (2) and (3), in fixing the venue for the creditors' meeting and the company meeting, the person summoning the meeting ("the convener") shall have regard primarily to the convenience of the creditors.

(2) Meetings shall in each case be summoned for commencement between 10.00 and 16.00 hours on a business day.

(3) The meetings shall be held on the same day and in the same place, but the creditors' meeting shall be fixed for a time in advance of the company meeting.

(4) With every notice summoning either meeting there shall be sent out forms of proxy.

[E.R.1.13]

The chairman at meetings

1.14.—(1) Subject to paragraph (2), at both the creditors' meeting and the company meeting, and at any combined meeting, the convener shall be chairman.

(2) If for any reason he is unable to attend, he may nominate another person to act as chairman in his place; but a person so nominated must be either—

(a) a person qualified to act as an insolvency practitioner in relation to the company, or

(b) an employee of the convener or his firm who is experienced in insolvency matters.

[E.R.1.14]

The chairman as proxy-holder

1.15. The chairman shall not by virtue of any proxy held by him vote to increase or reduce the amount of the remuneration or expenses of the nominee or the supervisor of the proposed arrangement, unless the proxy specifically directs him to vote in that way.

[E.R.1.15]

Attendance by company officers

1.16.—(1) At least 14 days' notice to attend the meetings shall be given by the convener—

(a) to all directors of the company, and

(b) to any persons in whose case the convener thinks that their presence is required as being officers of the company, or as having been directors or officers of it at any time in the 2 years immediately preceding the date of the notice.

(2) The chairman may, if he thinks fit, exclude any present or former director or officer from attendance at a meeting, either completely or for any part of it; and this applies whether or not a notice under this Rule has been sent to the person excluded.

[E.R.1.16]

SECTION B: VOTING RIGHTS AND MAJORITIES

Voting rights (creditors)

1.17.—(1) Subject to paragraphs (3), (4), (5), (6) and (7), every creditor who was given notice of the creditors' meeting is entitled to vote at the meeting or any adjournment of it.

(2) Votes are calculated according to the amount of the creditor's debt as at the date of the meeting or, where the company is being wound up or is subject to an administration order, the date of its going into liquidation or (as the case may be) of the administration order.

(3) A creditor shall not vote in respect of a debt for an unliquidated amount, or any debt whose value is not ascertained, except where the chairman agrees to put upon the debt an estimated minimum value for the purpose of entitlement to vote.

(4) At any creditors' meeting the chairman has power to admit or reject a creditor's claim for the purpose of his entitlement to vote, and the power is exercisable with respect to the whole or any part of the claim.

(5) The chairman's decision on a creditor's entitlement to vote is subject to appeal to the court by any creditor or member of the company.

(6) If the chairman is in doubt whether a claim should be admitted or rejected, he shall mark it as objected to and allow the creditor to vote, subject to his vote being subsequently declared invalid if the objection to the claim is sustained.

(7) Subject to paragraph (8), if on an appeal the chairman's decision is reversed or varied, or a creditor's vote is declared invalid, the court may order another meeting to be summoned, or make such other order as it thinks just.

(8) The court's power to make an order under paragraph (7) is exercisable only if it considers that the matter is such as gives rise to unfair prejudice or material irregularity.

(9) An application to the court by way of appeal against the chairman's decision shall not be made after the end of the period of 28 days beginning with the first day on which each of the reports required by Article 17(6) has been made to the court.

(10) The chairman is not personally liable for any costs incurred by any person in respect of an appeal under this Rule.

[E.R.1.17]

Voting rights (members)

1.18.—(1) Subject to paragraph (2), members of the company at their meeting vote according to the rights attaching to their shares respectively in accordance with the articles.

(2) Where no voting rights attach to a member's shares, he is nevertheless entitled to vote either for or against the proposal or any modification of it.

(3) References in this Rule to a person's shares include any other interest which he may have as a member of the company.

[E.R.1.18]

Requisite majorities (creditors)

1.19.—(1) Subject to paragraphs (2) to (7), at the creditors' meeting for any resolution to pass approving any proposal or modification there must be a majority in excess of three-quarters in value of the creditors present in person or by proxy and voting on the resolution.

(2) The same applies in respect of any other resolution proposed at the meeting, but substituting one-half for three-quarters.

(3) In the following cases there is to be left out of account a creditor's vote in respect of any claim or part of a claim—

(a) where written notice of the claim was not given, either at the meeting or before it, to the chairman or convener of the meeting;

(b) where the claim or part is secured;

(c) where the claim is in respect of a debt wholly or partly on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing—

(i) to treat the liability to him on the bill or note of every person who is liable on it antecedently to the company, and against whom a bankrupty order has not been made

(or in the case of a company, which has not gone into liquidation), as a security in his hands, and

(ii) to estimate the value of the security and (for the purpose of entitlement to vote, but not of any distribution under the arrangement) to deduct it from his claim.

(4) Any resolution is invalid if those voting against it include more than half in value of the creditors, counting in these latter only those—

(a) to whom notice of the meeting was sent;

(b) whose votes are not to be left out of account under paragraph (3); and

(c) who are not, to the best of the chairman's belief, persons connected with the company.

(5) It is for the chairman of the meeting to decide whether under this Rule—

(a) a vote is to be left out of account in accordance with paragraph (3), or

(b) a person is a connnected person for the purposes of paragraph (4)(c);

and in relation to the second of these 2 cases the chairman is entitled to rely on the information provided by the company's statement of affairs or otherwise in accordance with this Part.

(6) If the chairman uses a proxy contrary to Rule I.15, his vote with that proxy does not count towards any majority under this Rule.

(7) Paragraphs (5) to (10) of Rule 1.17 apply as regards an appeal against the decision of the chairman under this Rule.

[E.R.1.19]

Requisite majorities (members)

1.20.—(1) Subject to paragraphs (2) to (4), and to any express provision made in the company's articles, at a company meeting any resolution is to be regarded as passed if voted for by more than one-half in value of the members present in person or by proxy and voting on the resolution.

(2) The value of members is determined by reference to the number of votes conferred on each member by the articles.

(3) In determining whether a majority for any resolution has been obtained, there is to be left out of account any vote cast in accordance with Rule 1.18(2).

(4) If the chairman uses a proxy contrary to Rule 1.15, his vote with that proxy does not count towards any majority under this Rule.

[E.R.1.20]

Proceedings to obtain agreement on the proposal

1.21.—(1) On the day on which the meetings are held, they may from time to time be adjourned; and, if the chairman thinks fit for the purpose of obtaining the simultaneous agreement of the meetings to the proposal (with the same modifications, if any), the meetings may be held together.

(2) If on that day the requisite majority for the approval of the voluntary arrangement (with the same modifications, if any) has not been obtained from both creditors and members of the company, the chairman may, and shall if it is so resolved, adjourn the meetings for not more than 14 days.

(3) If there are subsequently further adjournments, the final adjournment shall not be to a day later than 14 days after the date on which the meetings were originally held.

(4) There shall be no adjournment of either meeting unless the other is also adjourned to the same business day.

(5) In the case of a proposal by the directors, if the meetings are adjourned under paragraph (2), notice of the fact shall be given by the nominee forthwith to the court.

(6) If following any final adjournment of the meetings the proposal (with the same modifications, if any) is not agreed by both meetings, it is deemed rejected.

[E.R.1.21]

SECTION C: IMPLEMENTATION OF THE ARRANGEMENT

Resolutions to follow approval

1.22.—(1) If the voluntary arrangement is approved (with or without modifications) by the two meetings, a resolution may be taken by the creditors, where two or more insolvency practitioners are appointed to act as supervisor, on the question whether acts to be done in connection with the arrangement may be done by any one of them, or must be done by both or all.

(2) A resolution under paragraph (1) may be passed in anticipation of the approval of the voluntary arrangement by the company meeting if that meeting has not then been concluded.

(3) If at either meeting a resolution is moved for the appointment of some person other than the nominee to be supervisor of the arrangement, there must be produced to the chairman, at or before the meeting—

(a) that person's written consent to act (unless he is present and then and there signifies his consent), and

(b) his written confirmation that he is qualified to act as an insolvency practitioner in relation to the company.

[E.R.1.22]

Hand-over of property, etc. to supervisor

1.23.—(1) After the approval of the voluntary arrangement—

(a) the directors, or

(b) where the company is in liquidation or is subject to an administration order, and a person other than the responsible insolvency practitioner is appointed as supervisor of the voluntary arrangement, the insolvency practitioner,

shall forthwith do all that is required for putting the supervisor into possession of the assets included in the arrangement.

(2) Where the company is in liquidation or is subject to an administration order, the supervisor shall on taking possession of the assets discharge any balance due to the insolvency practitioner by way of remuneration or on account of—

(a) costs properly incurred and payable under the Order or the Rules, and

(b) any advances made in respect of the company, together with interest on such advances at the rate applicable to a money judgment of the High Court at the date on which the company went into liquidation or (as the case may be) became subject to the administration order.

(3) Alternatively, the supervisor must, before taking possession, give the responsible insolvency practitioner a written undertaking to discharge any such balance out of the first realisation of assets.

(4) The responsible insolvency practitioner has a charge on the assets included in the voluntary arrangement in respect of any sums due under paragraph (2) until they have been discharged, subject only to the deduction from realisations by the supervisor of the proper costs of such realisations.

(5) The supervisor shall from time to time out of the realisation of assets discharge all guarantees properly given by the responsible insolvency practitioner for the benefit of the company, and shall pay all the responsible insolvency practitioner's expenses.

(6) References in this Rule to the responsible insolvency practitioner include, where a company is being wound up by the court, the official receiver, whether or not in his capacity as liquidator; and any sums due to the official receiver take priority over those due to a liquidator.

[E.R.1.23]

Report of meetings

1.24.—(1) A report of the meetings shall be prepared by the person who was chairman of them.

(2) The report shall—

(a) state whether the proposal for a voluntary arrangement was approved or rejected and, if approved, with what (if any) modifications;

(b) set out the resolutions which were taken at each meeting, and the decision on each one;

(c) list the creditors and members of the company (with their respective values) who were present or represented at the meetings, and how they voted on each resolution; and

(d) include such further information (if any) as the chairman thinks it appropriate to make known to the court.

(3) A copy of the chairman's report shall, within 4 days of the meetings being held, be filed in court; and the court shall cause that copy to be endorsed with the date of filing.

(4) In respect of each of the meetings, the persons to whom notice of its result is to be sent by the chairman under Article 17(6) are all those who were sent notice of the meeting under this Part.

(5) The notice under Article 17(6) shall be sent immediately after a copy of the chairman's report is filed in court under paragraph (3).

(6) If the voluntary arrangement has been approved by the meetings (whether or not in the form proposed), the supervisor shall forthwith send a copy of the chairman's report to the registrar.

[E.R.1.24]

Revocation or suspension of the arrangement

1.25.—(1) This Rule applies where the court makes an order of revocation or suspension under Article 19.

(2) The person who applied for the order shall serve sealed copies of it—

(a) on the supervisor of the voluntary arrangement, and

(b) on the directors of the company or the administrator or liquidator (according to who made the proposal for the arrangement).

(3) Service on the directors may be effected by service of a single copy of the order on the company at its registered office.

(4) If the order includes a direction by the court under Article 19(4)(b) for any further meetings to be summoned, notice shall also be given (by the person who applied for the order) to whoever is, in accordance with the direction, required to summon the meetings.

(5) The directors or (as the case may be) the administrator or liquidator shall—

(a) forthwith after receiving a copy of the court's order, give notice of it to all persons who were sent notice of the creditors' and company meetings or who, not having been sent that notice, appear to be affected by the order;

(b) within 7 days of their receiving a copy of the order (or within such longer period as the court may allow), give notice to the court whether it is intended to make a revised proposal to the company and its creditors, or to invite re-consideration of the original proposal.

(6) The person on whose application the order of revocation or suspension was made shall, within 7 days after the making of the order, deliver a copy of the order to the registrar.

[E.R.1.25]

Supervisor's accounts and reports

1.26.—(1) Where the voluntary arrangement authorises or requires the supervisor—

(a) to carry on the business of the company or trade on its behalf or in its name, or

(b) to realise assets of the company, or

(c) otherwise to administer or dispose of any of its funds,

he shall keep accounts and records of his acts and dealings in and in connection with the arrangement, including in particular records of all receipts and payments of money.

(2) Subject to paragraph (3), the supervisor shall, not less often than once in every 12 months beginning with the date of his appointment, prepare an abstract of such receipts and payments, and send copies of it, accompanied by his comments on the progress and efficacy of the arrangement, to—

(a) the court,

(b) the registrar,

(c) the company,

(d) all those of the company's creditors who are bound by the arrangement,

(e) subject to paragraph (5), the members of the company who are so bound, and

(f) if the company is not in liquidation, the company's auditors for the time being.

(3) If in any period of 12 months he has made no payments and had no receipts, he shall at the end of that period send a statement to that effect to all those specified in paragraph (2)(a) to (f).

(4) An abstract provided under paragraph (2) shall relate to a period beginning with the date of the supervisor's appointment or (as the case may be) the day following the end of the last period for which an abstract was prepared under this Rule; and copies of the abstract shall be sent out, as required by paragraph (2), within the 2 months following the end of the period to which the abstract relates.

(5) If the supervisor is not authorised as mentioned in paragraph (1), he shall, not less often than once in every 12 months beginning with the date of his appointment, send to all those specified in paragraph (2)(a) to (f) a report on the progress and efficacy of the voluntary arrangement.

(6) The court may, on application by the supervisor—

(a) dispense with the sending under this Rule of abstracts or reports to members of the company, either altogether or on the basis that the availability of the abstract or report to members is to be advertised by the supervisor in a specified manner;

(b) vary the dates on which the obligation to send abstracts or reports arises.

[E.R.1.26]

Production of accounts and records to the Department

1.27.—(1) The Department may at any time during the course of the voluntary arrangement or after its completion require the supervisor to produce for inspection—

(a) his records and accounts in respect of the arrangement, and

(b) copies of abstracts and reports prepared in compliance with Rule 1.26.

(2) The Department may require production either at the premises of the supervisor or elsewhere; and it is the duty of the supervisor to comply with any requirement imposed on him under this Rule.

(3) The Department may cause any accounts and records produced to him under this Rule to be audited; and the supervisor shall give to the Department such further information and assistance as it needs for the purposes of its audit.

[E.R.1.27]

Costs

1.28. The costs that may be incurred for any of the purposes of the voluntary arrangement are—

(a) any disbursements made by the nominee prior to the approval of the arrangement, and any remuneration for his services as such agreed between himself and the company (or, as the case may be, the administrator or liquidator);

(b) any costs, which—

(i) are sanctioned by the terms of the arrangement, or

(ii) would be payable, or correspond to those which would be payable, in an administration or winding up.

[E.R.1.28]

Completion of the arrangement

1.29.—(1) Not more than 28 days after the final completion of the voluntary arrangement, the supervisor shall send to all the creditors and members of the company who are bound by it a notice that the voluntary arrangement has been fully implemented.

(2) With the notice there shall be sent to each creditor and member a copy of a report by the supervisor summarising all receipts and payments made by him in pursuance of the arrangement, and explaining any difference in the actual implementation of it as compared with the proposal as approved by the creditors' and company meetings.

(3) The supervisor shall, within the 28 days mentioned in paragraph (1), send to the registrar and to the court a copy of the notice to creditors and members under paragraph (1), together with a copy of the report under paragraph (2).

(4) The court may, on application by the supervisor, extend the period of 28 days under paragraphs (1) and (3).

[E.R.1.29]

CHAPTER 6

GENERAL

False representations, etc.

1.30.—(1) A person being a past or present officer of a company commits an offence if he makes any false representation or commits any other fraud for the purpose of obtaining the approval of the company's members or creditors to a proposal for a voluntary arrangement under Part II of the Order.

(2) For this purpose “officer” includes a shadow director.

(3) A person guilty of an offence under this Rule is liable to imprisonment or a fine, or both.

[E.R.1.30]