
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART V

WINDING UP OF COMPANIES REGISTERED
UNDER [F1the Companies Act 2006]

CHAPTER VI

WINDING UP BY THE HIGH COURT

Investigation procedures

Company's statement of affairs

111.—(1) Where the High Court has made a winding#up order or appointed a provisional liquidator, the official receiver may require some or all of the persons mentioned in paragraph (3) to make out and submit to him a statement in the prescribed form as to the affairs of the company.

(2) The statement shall be verified by affidavit by the persons required to submit it and shall show—

- (a) particulars of the company's assets, debts and liabilities;
- (b) the names and addresses of the company's creditors;
- (c) the securities held by them respectively;
- (d) the dates when the securities were respectively given; and
- (e) such further or other information as may be prescribed or as the official receiver may require.

(3) The persons referred to in paragraph (1) are—

- (a) those who are or have been officers of the company;
- (b) those who have taken part in the formation of the company at any time within one year before the relevant date;
- (c) those who are in the company's employment, or have been in its employment within that year, and are in the official receiver's opinion capable of giving the information required;
- (d) those who are or have been within that year officers of, or in the employment of, a company which is, or within that year was, an officer of the company.

(4) Where any persons are required under this Article to submit a statement of affairs to the official receiver, they shall do so (subject to paragraph (5)) before the expiration of 21 days from the day on which the prescribed notice of the requirement is given to them by the official receiver.

(5) The official receiver, if he thinks fit, may—

- (a) at any time release a person from an obligation imposed on him under paragraph (1) or (2); or

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- (b) either when giving the notice mentioned in paragraph (4) or subsequently, extend the period so mentioned;

and where the official receiver has refused to exercise a power conferred by this paragraph, the High Court, if it thinks fit, may exercise it.

(6) In this Article—

“employment” includes employment under a contract for services; and

“the relevant date” means—

- (a) in a case where a provisional liquidator is appointed, the date of his appointment; and
 (b) in a case where no such appointment is made, the date of the winding#up order.

(7) If a person without reasonable excuse contravenes any obligation imposed under this Article, he shall be guilty of an offence and, for continued contravention, he shall be guilty of a continuing offence.

Investigation by official receiver

112.—(1) Where a winding#up order is made by the High Court, it is the duty of the official receiver to investigate—

- (a) if the company has failed, the causes of the failure; and
 (b) generally, the promotion, formation, business, dealings and affairs of the company,

and to make such report (if any) to the Court as he thinks fit.

(2) The report is, in any proceedings, prima facie evidence of the facts stated in it.

Public examination of officers

113.—(1) Where a company is being wound up by the High Court, the official receiver may at any time before the dissolution of the company apply to the Court for the public examination of any person who—

- (a) is or has been an officer of the company; or
 (b) has acted as liquidator or administrator of the company or as receiver or manager; or
 (c) not being a person falling within sub#paragraph (a) or (b), is or has been concerned, or has taken part, in the promotion, formation or management of the company.

(2) Unless the High Court otherwise orders, the official receiver shall make an application under paragraph (1) if he is requested in accordance with the rules to do so by—

- (a) one#half, in value, of the company's creditors; or
 (b) three#quarters, in value, of the company's contributories.

(3) On an application under paragraph (1), the High Court shall direct that a public examination of the person to whom the application relates shall be held on a day appointed by the Court; and that person shall attend on that day and be publicly examined as to the promotion, formation or management of the company or as to the conduct of its business and affairs, or his conduct or dealings in relation to the company.

(4) The following may take part in the public examination of a person under this Article and may question that person concerning the matters mentioned in paragraph (3), namely—

- (a) the official receiver;
 (b) the liquidator of the company;
 (c) any person who has been appointed as special manager of the company's property or business;

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- (d) any creditor of the company who has tendered a proof;
- (e) any contributory of the company.

Enforcement of Article 113

114.—(1) If a person without reasonable excuse fails at any time to attend his public examination under Article 113, he is guilty of a contempt of court and liable to be punished accordingly.

(2) In a case where a person without reasonable excuse fails at any time to attend his examination under Article 113 or there are reasonable grounds for believing that a person has absconded, or is about to abscond, with a view to avoiding or delaying his examination under that Article, the High Court may cause a warrant to be issued to a constable—

- (a) for the arrest of that person; and
- (b) for the seizure of any books, papers, records, money or goods in that person's possession.

(3) In such a case the High Court may authorise the person arrested under the warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until such time as the Court may order.

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