

2009 No. 202

INSOLVENCY

**The Insolvency (Amendment) Regulations (Northern Ireland)
2009**

Made - - - - - *20th May 2009*

Affirmed by resolution of the Assembly on *23rd June 2009*

Coming into operation - - - - - *1st October 2009*

The Department of Enterprise, Trade and Investment(a) makes the following Regulations in exercise of the powers conferred on it by Rule 12.01 of the Insolvency Rules (Northern Ireland) 1991(b) and Article 359 of, and paragraphs 27 of Schedule 5 and 28 of Schedule 6 to, the Insolvency (Northern Ireland) Order 1989(c).

Citation, interpretation and commencement

1.—(1) These Regulations may be cited as the Insolvency (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 1st October 2009.

(2) In these Regulations, the “principal Regulations” means the Insolvency Regulations (Northern Ireland) 1996(d).

Amendment of the principal Regulations

2. The principal Regulations shall be amended in accordance with the provisions of the Schedule.

Transitional provisions

3. The substitution of Schedule 1 to the principal Regulations by paragraph 4 of the Schedule shall only apply in relation to services provided by the official receiver or any of his officers in relation to—

- (a) a company in respect of which a winding-up order is made on or after 1st October 2009;
- (b) a bankruptcy where the bankruptcy order is made on or after 1st October 2009; or
- (c) his appointment as interim receiver or provisional liquidator when he is appointed on or after 1st October 2009.

(a) Formerly the Department of Economic Development, see the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)), Article 3(5)
(b) S.R. 1991 No. 364 amended by S.R. 1994 No. 26, S.R. 1995 No. 291, S.R. 2000 No. 247, S.R. 2002 No. 261, S.R. 2003 No. 549, S.I.2004/355 and S.R. 2006 No. 47
(c) S.I. 1989/2405 (N.I.19); Article 359 was amended by S.R. 2002 No. 223.
(d) S.R. 1996 No. 574 as amended by S.I. 2004/355 and S.R. 2006 No. 23

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 20th May 2009.



Michael J Bohill
A senior officer of the
Department of Enterprise, Trade and Investment

SCHEDULE

Regulation 2

Amendment of regulation 3

1. After regulation 3A of the principal Regulations there shall be inserted the following—

“Payment of unclaimed dividends or other money

3B.—(1) This regulation applies to monies which—

- (a) are held by the former administrator of a dissolved company; and
- (b) represent either or both of the following—
 - (i) unclaimed dividends due to creditors, or
 - (ii) sums 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.

(2) Any monies to which this regulation applies may be paid into the Insolvency Account.

(3) Where under this regulation the former administrator pays any sums into the Insolvency Account, he shall at the same time give notice to the Department of—

- (a) the name of the company;
- (b) the name and address of the person to whom the dividend or other sum is payable;
- (c) the amount of the dividend or other sum; and
- (d) the date on which it was paid.

(4) Where a dividend or other sum is paid to a person by way of a payment instrument, any payment into the Insolvency Account in respect of that dividend or sum pursuant to paragraph (2) may not be made earlier than on or after the expiry of 6 months from the date of the payment instrument.”.

Insertion of Part 1B

2. After regulation 3B there shall be inserted—

“PART 1B

ADMINISTRATIVE RECEIVERSHIP

Payment of unclaimed dividends or other money

3C.—(1) This regulation applies to monies which—

- (a) are held by the former administrative receiver of a dissolved company; and
- (b) represent either or both of the following—
 - (i) unclaimed dividends due to creditors, or
 - (ii) sums 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.

(2) Any monies to which this regulation applies may be paid into the Insolvency Account.

(3) Where the former administrative receiver pays any sums into the Insolvency Account, he shall at the same time give notice to the Department of—

- (a) the name of the company;
- (b) the name and address of the person to whom the dividend or other sum is payable;

- (c) the amount of the dividend or other sum; and
- (d) the date on which it was paid.

(4) Where a dividend or other sum is paid to a person by way of a payment instrument, any payment in respect of that dividend or sum into the Insolvency Account pursuant to paragraph(2) may not be made earlier than on or after the expiry of 6 months from the date of the payment instrument.”.

Amendment of regulation 18

3. For the heading to, and regulation 18 substitute the following—

“Payment of unclaimed dividends or other money

18.—(1) This regulation applies to monies which—

- (a) are held by the former liquidator of a dissolved company, and
- (b) represent either or both of the following—
 - (i) unclaimed dividends due to creditors, or
 - (ii) sums 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.

(2) Monies to which this regulation applies—

- (a) may in the case of a voluntary winding up, and
- (b) shall in the case of a winding up by the court,
be paid into the Insolvency Account.

(3) Where the former liquidator pays any sums into the Insolvency Account pursuant to paragraph (2), he shall at the same time give notice to the Department of—

- (a) the name of the company;
- (b) the name and address of the person to whom the dividend or other sum is payable;
- (c) the amount of dividend or other sum; and
- (d) the date on which it was paid.

(4) Where a dividend or other sum is paid to a person by way of a payment instrument, any payment into the Insolvency Account in respect of that dividend or sum pursuant to paragraph (2) may not be made earlier than on or after the expiry of 6 months from the date of the payment instrument.”.

Substitution of Schedule 1

4. For Schedule 1 there shall be substituted—

“SCHEDULE 1

Regulation 34

<i>Grade according to the Insolvency Service grading structure/Status of Official</i>	<i>Total hourly rate £</i>
Official Receiver	69
Deputy Official Receiver	58
Examiner/Staff Officer administrator	46
Assistant Examiner/EOI administrator	43
Trainee Examiner/EOII administrator	42
Administrative Officer	36
Administrative Assistant	31”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insolvency Regulations (Northern Ireland) 1996 (S.R. 1996 No. 574) (“the principal Regulations”). Paragraphs 1 and 2 of the Schedule insert new regulations 3B and 3C into the principal Regulations to make provision allowing payments of unclaimed funds and dividends to be made, on the dissolution of a company, by an administrator or an administrative receiver into the Insolvency Account. They also make similar provision for liquidators in a voluntary winding up, whilst retaining the mandatory requirement to make payment into the Insolvency Account in respect of a winding up by the court. Further provision is made for the information which must be provided by the office-holders when making a payment into the Insolvency Account of unclaimed dividends or other sums in an administration, an administrative receivership or a voluntary winding up.

Paragraph 3 removes references to unclaimed or undistributed assets and undistributed dividends in regulation 18 of the principal Regulations, since upon dissolution of a company all property and rights whatsoever vested in or held on trust for the company (but not including property held by the company on trust for any other person) are deemed to be *bona vacantia*, and accordingly belong and are payable to the Crown, or to the Duchy of Lancaster or the Duke of Cornwall for the time being (as the case may be).

Paragraph 4 amends Schedule 1 to the principal Regulations which sets out the hourly rates for the remuneration of the official receiver and his officers. The new remuneration provisions shall apply where a winding-up order, bankruptcy order or an appointment as an interim receiver or provisional liquidator is made after 1st October 2009 (Regulation 3).

A regulatory impact assessment has not been prepared for these Regulations.

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