

EXPLANATORY MEMORANDUM TO
THE INSOLVENCY (AMENDMENT) RULES (NORTHERN IRELAND) 2015

S.R. 2015 No. 262

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 359 of the Insolvency (Northern Ireland) Order 1989 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Insolvency (Amendment) Rules (Northern Ireland) 2015 amend the Insolvency Rules (Northern Ireland) 1991 (“the principal Rules”) to introduce a number of procedures which will make improvements in the administration of insolvencies aimed at providing a better service for both debtors and creditors.

3. Background

- 3.1. Remuneration - These Rules introduce the option of paying the administrator a set amount. Currently remuneration is calculated as either a percentage of the value of the property with which the administrator is dealing or on the basis of time spent attending to matters arising from the administration.
- 3.2. Pre-appointment administration expenses - These Rules will enable administrators and other insolvency practitioners to seek recovery of unpaid pre-appointment costs as an expense of the administration. Such costs will need to have been incurred in advising the company in relation to the decision to put the company into administration and will only be payable if they are approved by the creditors committee, a resolution of creditors, or the court. To ensure creditors are provided with the information they need to form a view as to whether pre-administration costs should be approved, provision is made for details of that work to be disclosed within the administrator's proposals, including an explanation as to why the pre-appointment work was necessary.
- 3.3. Block transfer orders - A new Chapter 2A is inserted into Part 7 of the principal Rules. It introduces a special type of application referred to as a block transfer order. This applies where an individual who is acting as an office-holder dies, retires from practice, or is otherwise unable or unwilling to continue in office, and it is expedient to transfer some or all of the cases in which the outgoing office-holder holds office to one or more replacement office-holders in a single transaction.
- 3.4. Removal of filing requirements - Rule 7.28 of the principal Rules is revoked, removing most requirements for the filing at court of advertisements in insolvency cases and the requirement to file a memorandum giving particulars of insolvency advertisements.

- 3.5. These Rules also make a number of minor amendments to existing forms used in insolvency and introduce a new form for the submission of information to the registrar of companies.

4. Consultation

- 4.1. The Department of Enterprise, Trade and Investment has consulted the Insolvency Rules Committee which has agreed to the making of these Rules.

5. Equality Impact

- 5.1. An equality impact assessment has not been prepared for this instrument. It is considered that it fully complies with section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment has not been carried out as the impact on business, charities or voluntary bodies is limited.
- 6.2. The impact on the public sector is beneficial. The removal of the Rule 7.28 filing requirements will reduce burdens on the courts.

7. Financial Implications

- 7.1. It is not anticipated that there will be any additional cost to the public purse as a result of this legislation.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that the Rules are not incompatible with the Convention rights, are not incompatible with European Union law, do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable

10. Parity or Replicatory Measure

- 10.1. These Rules replicate selected provisions in the Insolvency (Amendment) Rules 2009, (S.I. 2009/642), the Insolvency (Amendment) Rules 2010, (S.I. 2010/686) and the Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012, (S.I. 2012/2404) which apply in England and Wales.

11. Additional Information

- 11.1. Not applicable