
STATUTORY RULES OF NORTHERN IRELAND

2021 No. 259

**The Corporate Insolvency and Governance
Act 2020 (Coronavirus) (Amendment of
Schedule 11) Regulations (Northern Ireland) 2021**

Amendment of the Corporate Insolvency and Governance Act 2020

2. For Schedule 11 to the Corporate Insolvency and Governance Act 2020(1) substitute—

“SCHEDULE 11

Section 11

RESTRICTION ON WINDING-UP PETITIONS: NORTHERN IRELAND

Restriction on winding-up petitions

1.—(1) During the relevant period a creditor may not present a petition for the winding up of a company under Article 104 of the 1989 Order on a ground specified—

- (a) in the case of a registered company, in Article 102(f) of that Order, or
- (b) in the case of an unregistered company, in Article 185(4)(b) of that Order,

unless conditions A to D are met (subject to sub-paragraphs (9) to (11)).

(2) Condition A is that the creditor is owed a debt by the company—

- (a) whose amount is liquidated,
- (b) which has fallen due for payment, and
- (c) which is not an excluded debt.

(3) Condition B is that the creditor has delivered written notice to the company in accordance with sub-paragraphs (4) to (6).

(4) Notice under sub-paragraph (3) must contain the following—

- (a) identification details for the company,
- (b) the name and address of the creditor,
- (c) the amount of the debt and the way in which it arises,
- (d) the date of the notice,
- (e) a statement that the creditor is seeking the company’s proposals for the payment of the debt, and
- (f) a statement that if no proposal to the creditor’s satisfaction is made within the period of 21 days beginning with the date on which the notice is delivered, the creditor intends to present a petition to the High Court for the winding-up of the company.

(5) Notice under sub-paragraph (3) must be delivered—

(1) Schedule 11 was amended by [S.R. 2020 No. 199](#), [S.R. 2020 No. 321](#), [S.R. 2021 No. 75](#) and [S.R. 2021 No. 165](#).

- (a) to the company’s registered office, or
- (b) in accordance with sub-paragraph (6) if—
 - (i) for any reason it is not practicable to deliver the notice to the company’s registered office,
 - (ii) the company has no registered office, or
 - (iii) the company is an unregistered company.
- (6) Where this sub-paragraph applies the notice may be delivered to—
 - (a) the company’s last known principal place of business, or
 - (b) the secretary, or a director, manager or (in relation to an unregistered company) principal officer of the company.
- (7) Condition C is that at the end of the period of 21 days beginning with the day on which condition B was met the company has not made a proposal for the payment of the debt that is to the creditor’s satisfaction.
- (8) Condition D is that—
 - (a) where the petition is presented by one creditor, the sum of the debts (or the debt, if there is only one) owed by the company to that creditor in respect of which conditions A to C are met is £10,000 or more,
 - (b) where the petition is presented by more than one creditor, the sum of the debts owed by the company to the creditors in respect of which conditions A to C are met is £10,000 or more.
- (9) A creditor may at any time apply to the High Court for an order that, in respect of a specified debt—
 - (a) conditions B and C do not apply, or
 - (b) condition C applies as if the reference to the period of 21 days were to such shorter period as the Court may direct.
- (10) Where an order is made under sub-paragraph (9)(a), the references in sub-paragraph (8) to conditions A to C are to be read as references to condition A.
- (11) If the Court makes an order under sub-paragraph (9)(b) it may—
 - (a) give such directions as to delivery of the written notice referred to in condition B as it thinks fit, or
 - (b) direct that sub-paragraphs (4) to (6) apply in respect of the delivery of that notice subject to such modifications it thinks fit.

Modification of Insolvency Rules

- 2.—(1) This paragraph applies in relation to a petition which is presented by a creditor under Article 104 of the 1989 Order during the relevant period.
- (2) Schedule 2 to the Insolvency Rules has effect as if for Form 4.02 (Winding-up Petition) there were substituted the Form at the end of this Schedule.

Interpretation

- 3.—(1) In this Schedule “relevant period” means the period which—
 - (a) begins with 1 October 2021, and
 - (b) ends with 31 March 2022.

- (2) For the purposes of this Schedule, references to a petition presented by a creditor—
- (a) do not include a petition presented by one or more creditors together with one or more other persons, but
 - (b) subject to that, do include a petition presented by more than one creditor, in which case the conditions specified in paragraph 1(2) to (7) must be met in relation to each creditor presenting the petition.
- (3) For the purposes of this Schedule—
- “the 1989 Order” means the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));
- “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);
- “excluded debt” means a debt in respect of rent, or any sum or other payment that a tenant is liable to pay, under a relevant business tenancy and which is unpaid by reason of a financial effect of coronavirus;
- “Insolvency Rules” means the Insolvency Rules (Northern Ireland) 1991 (S.R. (N.I.) 1991/364);
- “registered company” means a company registered under the Companies Act 2006 in Northern Ireland;
- “relevant business tenancy” means—
- (a) a tenancy to which the Business Tenancies (Northern Ireland) Order 1996 (S.I. 1996/725 (N.I. 5)) applies, or
 - (b) a tenancy to which that Order would apply if any relevant occupier were the tenant;
- “relevant occupier” in relation to a tenancy, means a person, other than the tenant, who lawfully occupies premises which are, or form part of, the property comprised in the tenancy; and
- “unregistered company” has the meaning given in Part 6 of the 1989 Order.

General

4.—(1) The provisions of this Schedule, so far as relating to registered companies, have effect as if they were included in Part 5 of the 1989 Order.

(2) Sub-paragraph (1) does not apply in relation to paragraph 2 (modification of insolvency rules).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Winding Up Petition

No. _____

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION (COMPANIES WINDING UP)**

*Insert name of company

IN THE MATTER OF*

AND IN THE MATTER OF THE INSOLVENCY (NORTHERN IRELAND) ORDER 1989

To the High Court of Justice in Northern Ireland

(a) Insert full name(s) and address(es) of petitioner(s)

The petition of (a)

(b) Insert full name and registered no. of company; subject to petition

1. (b) _____
(hereinafter called "the company") was incorporated on

(c) Insert date of incorporation

(c)

(d) Insert title of Companies Act or Order under which company was incorporated

under (d)

(e) Insert address of registered office

The registered office of the company is at (e) _____

(f) Insert amount of nominal capital and how it is divided

3. The nominal capital of the company is (f) £ divided into shares of £ each. The amount of the capital paid up or credited as paid up is (g) £

(g) Insert amount of capital paid up or credited as paid up

4. The principal objects for which the company was established are as follows:
and other objects stated in the company's articles

(h) Set out the grounds on which a winding-up order is sought

5. (h)

(j) Delete as applicable

6. The company (j) is/is not an insurance undertaking; a credit institution; an investment undertaking providing services involving the holding of funds or securities for third parties; or a collective investment undertaking as referred to in

Article 1.2 of the EC Regulation.

(k) Insert name of person swearing affidavit
7. For the reasons stated in the affidavit of (k) filed in support hereof it is considered that the that these proceedings will be (l) proceedings.

(l) Insert whether COMI proceedings, establishment proceedings, or proceedings to which the EU Regulation as it has effect in the law of the United Kingdom does not apply

(j) Delete as applicable
8. The petitioner/the petitioners (j) is/ is not/are//are not a creditor/creditors under Article 104 of the Insolvency (Northern Ireland Order 1989

(m) This must be confirmed if the petitioner(s) is/are creditor(s) under Article 104 of the Insolvency (Northern Ireland) Order 1989.
I/we confirm that the conditions in paragraphs 1 of Schedule 11 to the Corporate Insolvency and Governance Act 2020 are met (m)

(j) Delete as appropriate
(j) No proposals for the payment of the debt owed to me/us have been made
OR

(j) Proposals for the payment of the debt owed to me/us have been made but are not to my/our satisfaction for the following reasons

(n) Enter summary of reasons
(n)

9. In the circumstances it is just and equitable that the company should be wound up. The petitioner(s) therefore pray(s) as follows: –

(1) that (b) may be wound up by the court under the provisions of the Insolvency (Northern Ireland) Order 1989

or

(2) that such other order may be made as the court thinks fit.

(o) If the company is the petitioner, delete "the company". Add the full name and address of any other person on whom it is intended to serve this petition
Note: It is intended so serve this petition on (o) [the company] [and]

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Endorsement

This petition having been presented to the court on will be heard
at Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF

on:

Date

Time **hours**
(**or** as soon thereafter as the petition can be heard)

The solicitor to the petitioner is: –

Name

Address

Telephone number

Fax Number (if any)

Reference