

SCHEDULE 5

Regulation 17(8)

Co-ownership schemes: application of the Insolvency Rules (Northern Ireland) 1991

PART 1

Application of Rules with modifications

1. In relation to the winding up of a relevant scheme under the 1989 Order, Rules 0.1 to 0.7 (introductory provisions), Parts 4 and 7 to 12 of the Insolvency Rules (Northern Ireland) 1991^{M1}, in so far as they apply to the winding up of an unregistered company, apply with—

- (a) the general modifications set out in paragraphs 2 and 3;
- (b) any other modification specified in the Table in Part 2 of this Schedule; and
- (c) any other necessary modification.

Marginal Citations

M1 S.R. 1991 No. 364 as amended by S.R. 1994 No. 26, 1995 No. 291, 2000 No. 247, 2002 No. 261, 2003 No. 549, 2004 No. 355, 2006 No. 47, 2008 No. 118, 2009 No. 404 and 2011 No. 151.

2. Unless the context otherwise requires and subject to any modification specified in the Table in Part 2 of this Schedule which has a contrary effect, the general modifications are the modifications made in sub-paragraphs (a) to (h) of paragraph 2 of Schedule 3 (read as if set out in this paragraph), except that sub-paragraph (c) is to be read as if for “section 222(1)(a)” there were substituted “Article 186(1)”.

3. A reference to the registrar^{M2} is to be read as a reference to the FCA.

Marginal Citations

M2 The registrar is the registrar of companies for Northern Ireland (see Article 5(1) of the 1989 Order (interpretation)).

PART 2

Table of specific modifications of the Insolvency Rules (Northern Ireland) 1991

<i>Rule</i>	<i>Subject</i>	<i>Modification</i>
<i>Part 4 (companies winding up)</i>		
<i>Chapter 1 (the scheme of Part 4)</i>		
4.002	Winding up by the court: the various forms of petition	Paragraph (2) is to be read as if— <ol style="list-style-type: none">(a) the reference to the company included a reference to the operator of a relevant scheme; and(b) the words “the directors,” and “the official receiver,” were omitted.
Chapter 2 (the statutory demand)		

Changes to legislation: There are currently no known outstanding effects for the The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013, SCHEDULE 5. (See end of Document for details)

4.004	Preliminary	In paragraph (2) the reference to a company is to be read as a reference to the operator of a relevant scheme.
4.005	Form and content of statutory demand	In paragraph (2)(a) the reference to the company's liability is to be read as a reference to the liability of the relevant scheme in relation to which the statutory demand has been served.
4.006	Information to be given in statutory demand	In paragraph (1)(c) the reference to the company is to be read as a reference to the operator of the relevant scheme in relation to which the statutory demand has been served.
Chapter 3 (petition to winding-up order)		
4.007	Presentation and filing of petition	Paragraph (3) is to be read as if the words “If the petitioner is other than the company itself,” were omitted.
4.008	Service of petition	This Rule is to be read as if paragraph (2) required the petition is to be served at the registered office or principal place of business of the operator and of the depositary. Paragraphs (3) to (5) apply in relation to the operator and in relation to the depositary as they apply in relation to a company on which a petition is served.
4.010	Other persons to receive copies of petition	This Rule is to be read as if there were substituted for paragraphs (1) to (5)— “(1) The petitioner must send a copy of the petition to the FCA.”.
4.011	Notice and advertisement of petition	The advertisement must state (instead of the particulars in paragraph (5)(a)) the name of the relevant scheme, the name and registered office (or principal place of business) of the operator and of the depositary and, if service of the petition was effected overseas, the address at which it was effected.
4.013	Persons entitled to copy of petition	This Rule is to be read as if the word “director,” were omitted.
4.015	Dismissal or withdrawal of petition	In paragraph (1)(c) the reference to the company is to be read as a reference to the operator and the depositary.
4.018	Affidavit by company in opposition	In this Rule— (a) each reference to the company is to be read as a reference to the operator; and (b) paragraph (1) is to be read as if it required the operator to file an

affidavit only with the depositary's consent.

Chapter 4 (petition by contributories)

4.024 to Petition by contributories
4.026

These Rules do not apply.

Chapter 5 (provisional liquidator)

4.027 Appointment of provisional liquidator

Paragraph (1) is to be read as if it provided that an application for the appointment of a provisional liquidator may be made by the operator, the depositary, the FCA or a creditor.

4.031 Security

In paragraph (2)(a) the reference to the making of an order on the company is to be read as a reference to the making of an order on the operator and the depositary.

Chapter 6 (Statement of affairs and other information)

4.043 Submission of accounts

A reference to the accounts of the company is to be read as a reference to the accounts relating to the affairs of the relevant scheme.

Chapter 7 (information to creditors and contributories)

4.047 Reports by official receiver

This Rule is to be read as if paragraphs (1A) and (1B) were omitted.

4.052 Winding up stayed

In paragraph (2) the reference to the company is to be read as a reference to the operator.

Chapter 8 (meetings of creditors and contributories)

4.065 Attendance at meetings of company's personnel

A reference to the company's personnel is to be read as a reference to—

(a) the operator and the depositary;
and

(b) the directors and employees of the operator and the depositary.

Chapter 9 (proof of debts in a liquidation)

4.085 Liquidator to allow inspection of proofs

The reference to any contributory of the company is to be read as a reference to the operator or the depositary.

4.089 Appeal against decision on proof

In paragraph (3) the reference to a contributory is to be read as a reference to the operator or the depositary.

4.096 Mutual credits and set-off

A reference to mutual credits, mutual debts or other mutual dealings between the company and any creditor is to be read as a reference to mutual credits etc. between the operator on behalf of the participants and a creditor, and a reference to any obligation to or from the company, or any sum due or owed to, or due from, the company is to be read accordingly.

Chapter 10 (secured creditors)

Changes to legislation: There are currently no known outstanding effects for the The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013, SCHEDULE 5. (See end of Document for details)

4.104	Test of security's value	In paragraph (2) the reference to the liquidator on behalf of the company is to be read as a reference to the liquidator acting in the best interests of the relevant scheme.
Chapter 11 (the liquidator)		
4.131	Release of official receiver	This Rule is to be read as if paragraph (2A) were omitted.
4.132	Final meeting	This Rule is to be read as if paragraph (2A) were omitted.
4.135	Other matters affecting remuneration	Paragraph (3) is to be read as if for the words “act on behalf of the company” there were substituted “act in the liquidation”.
4.145	Liquidator's duties on vacating office	A reference to the company's books, papers and other records is to be read as a reference to all books, papers and other records affecting or relating to the affairs of, or the property subject to, the relevant scheme.
4.157	Power of court to set aside certain transactions	Paragraph (1) is to be read as if the court's power to order the liquidator to compensate the company for loss suffered in consequence of a transaction which is set aside included power to order the liquidator, by way of compensation for loss suffered in consequence of such a transaction, to contribute any sum to the property subject to the relevant scheme.
Chapter 12 (the liquidation committee)		
4.160	Membership of committee	Paragraph (1) is to be read as if the words “Subject to Rule 4.162,” were omitted.
4.162	Committee established by contributories	This Rule does not apply.
4.179	Composition of committee when creditors paid in full	This Rule is to be read as if— <ul style="list-style-type: none"> (a) at the end of paragraph (4) there were inserted “and the committee is abolished”; and (b) paragraphs (5) to (9) were omitted.
Chapter 14 (collection and distribution of company's assets by liquidator)		
4.190	Debts of insolvent company to rank equally	This Rule is to be read as if the references to preferential debts were omitted.
Chapter 15 (disclaimer)		
4.198	Communication of disclaimer to persons interested	In paragraph (2) the reference to a person who claims under the company as underlessee or mortgagee is to be read as a reference to a person claiming as underlessee or mortgagee under the leasehold title which is held by

the depositary (or a person nominated by the depositary to hold the leasehold title).

Chapters 16, 17 and 18

4.205 to Settlement of list of contributories 4.211 These Rules do not apply.

4.212 to Calls 4.215 These Rules do not apply.

4.216 to Special manager 4.220 These Rules do not apply.

Chapter 19 (public examination of company officers and others)

4.223 Order on request by creditors or contributories In paragraph (3) the reference to the relationship which the proposed examinee has, or has had, to the company is to be read as a reference to that person's interest in the relevant scheme or dealings with the operator.

Chapter 20 (order of payment of costs out of assets)

4.228 General rule as to priority Paragraph (2) is to be read as if subparagraph (b) were omitted. Paragraph (3) is to be read as if the words "Subject as provided in Rules 4.228A to 4.228E," were omitted. In paragraphs (2) and (3) a reference to any legal action or proceedings or any arbitration or other dispute resolution procedure which the liquidator has power to bring or defend in the name of the company is to be read as a reference to such action, proceedings or procedure which the liquidator has power to bring or defend on behalf of the participants.

4.228A to Litigation expenses and property 4.228E subject to a floating charge These Rules do not apply.

4.230 Saving for powers of the court In paragraph (2)—
(a) the reference to proceedings by or against the company is to be read as a reference to proceedings brought by or against the operator for the resolution of any matter relating to the relevant scheme; and
(b) the reference to the power of any court to order costs to be paid by the company is to be read as a reference to the power of any court to order costs to be paid out of the property subject to the relevant scheme.

Chapter 21 (miscellaneous rules)

Changes to legislation: There are currently no known outstanding effects for the The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013, SCHEDULE 5. (See end of Document for details)

4.231 4.232	and Order authorising a return of capital	These Rules do not apply.
4.233	Statement to registrar under Article 162	This Rule is to be read as if paragraph (2) were omitted.
4.234 4.235	and Dissolution after winding up	These Rules do not apply.
Chapters 22 and 23		
4.236 4.240	to Leave to act as director, etc., of company with prohibited name	These Rules do not apply.
4.241	EC Regulation – member state liquidator	This Rule does not apply.
Part 7 (court procedure and practice)		
7.05	Preliminary	The reference to a petition for a winding-up order under Part V is to be read as a reference to a petition presented under regulation 17(9).
7.27	Right to inspect the file	In paragraph (2)(a)— (a) the reference to a director or officer of the company is to be read as a reference to the operator and the depositary; and (b) the reference to a member of the company is to be read as a reference to a participant.
7.37	Costs and expenses of witnesses	In paragraph (1) the reference to an officer of the insolvent company is to be read as a reference to— (a) the operator or any person who is employed by the operator; or (b) the depositary or any person who is employed by the depositary.
7.51	Restriction on concurrent proceedings and remedies	The reference to the property of a company is to be read as a reference to the property subject to a relevant scheme.
Part 8 (proxies and company representation)		
8.5	Right of inspection	In paragraph (3) the right of inspection exercisable in the case of an insolvent company by its directors is exercisable in the case of the relevant scheme by the operator or the depositary.
Part 12 (miscellaneous and general)		
12.08	Forms for use in insolvency proceedings	Any form prescribed for use by this Rule which is used in proceedings for winding up a relevant scheme is to be read with the modifications set out in this Schedule (so far as applicable for the form concerned).

		This Rule is to be read, in relation to such a form, as subject to a requirement to vary the form as necessary to take account of applicable modifications.
12.17	Charge for copy documents	The first reference to a member is to be read as a reference to a participant.
12.20	False claim of status as creditor, etc.	In paragraph (1)— <ul style="list-style-type: none">(a) each reference to the Rules is to be read as a reference to the Rules as modified by this Schedule; and(b) the reference to the members of a company is to be read, in relation to the winding up of a relevant scheme, as a reference to—<ul style="list-style-type: none">(i) the operator or depositary of the relevant scheme; or(ii) the participants in it.

Changes to legislation:

There are currently no known outstanding effects for the The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013, SCHEDULE 5.