



Companies House

— for the record —

Northern Ireland Insolvency Issues

The commencement of the Companies Act 2006 on 1st October 2009 has provided a single company law regime that applies to the whole of the United Kingdom. As a consequence, Companies Registry Northern Ireland (CRNI) has integrated with Companies House, under the Department for Business, Innovation and Skills (BIS). Since October 2009 our office in Belfast has identified several common issues relating to insolvency documentation. The purpose of this information is to highlight these issues in order to save Insolvency Practitioners and Companies House avoidable expenses handling extra statutory documentation. This will also avoid potential filing errors and save any resulting costs incurred by Insolvency Practitioners in correcting the register via an expensive Court Order for example.

1. Change of address & delivering documents

The Companies House office in Belfast moved on 31st May 2010 to:

Second Floor, The Linenhall
32-38 Linenhall Street
Belfast
Northern Ireland
BT2 8BG

Our DX number remains the same DX 481 NR Belfast 1

Please note

We do not have an external Post Box facility for out of hours delivery at Companies House in Belfast.

Any correspondence addressed to Waterfront Plaza Building (our previous office) will only be forwarded onto our new address at Linenhall Street for a limited time.

Companies House does not produce receipts for documents received by post or hand delivery. If you are hand delivering documents or sending documents by post, courier or Britdox (DX) and would like a receipt, Companies House Belfast will endeavour to provide an acknowledgement if you enclose a copy of your covering letter (with a pre-paid addressed envelope if documents are submitted by post). If you provide a covering letter and no pre-paid envelope, we will not provide postage.

Please note

An acknowledgement of receipt does not mean that a document has been accepted for registration at Companies House.

Please do not leave hand delivered documents with the Security Guards on the ground floor of the building, as they are not Companies House staff. Hand delivered documents are only deemed to be received by Companies House when handed over at the Companies House reception desk on the Second Floor.

Our office hours are Monday to Friday 0900 to 1700 hours. We do not close for lunch. We close on Public and Bank holidays.

If you have a problem regarding the submission of documents, staff at Companies House Belfast are willing to help. Please visit the Companies House website www.companieshouse.gov.uk, email us enquiries@companieshouse.gov.uk or contact staff at our Contact Centre on **0303 1234 500**.

2. Liquidation and Insolvency (Northern Ireland) GP08n

There is new Northern Ireland Insolvency guidance available on our website www.companieshouse.gov.uk/about/guidance

3. Companies House Insolvency Documents—Importance of Company Numbers on Forms/Documents and a look at Portrait or Landscape Documentation

Company Number

One of the main problems encountered by the Liquidation Section of Companies House Belfast in dealing with documents received for registration is the omission of the company number, or an incorrect Company number stated on the Form.

This causes considerable extra work for both Companies House and the presenter of the document because Companies House staff do not have the authority to amend documents received for registration. Therefore the document would not meet the legal requirements for proper delivery and the presenter would run the risk of the document being rejected and returned to them.

It is vital for the correct company number to be quoted on all forms submitted for registration. It is also vital that the full company name is included on any documents submitted to the Registrar for filing, and that the document is signed and dated. Failure to do so could result in the documents being returned to you, or being assigned to the wrong company record.

The consequence of a document being placed on the record of another company because of failure to provide the correct number or name could, given the nature of the document, have a significant bearing upon that company's perceived standing.

Attachments

Further to the company number issue, if relevant statutory attachments are not sent with the forms, these will also have to be returned. This not only causes a delay in registering your document, it is an additional expense as Companies House Belfast and the Insolvency Practitioner have to pay the additional costs of returning the document and dealing with the document a second time. By ensuring all the relevant information is included with each insolvency document this could easily be avoided.

Quality and Format

It is also important to look at the quality and format of documents, which are presented to the Registrar for filing. It is easier to read documents which are submitted to Companies House in portrait layout. With that in mind, and due to the introduction of advanced scanning equipment, the Registrar's stated preference is for the submission of portrait forms. The vast majority of submitted documents already conform to an A4 portrait specification.

It must be stressed that for the time being no documents will be rejected where they satisfy all other filing criteria but contain landscape pages. Such forms will be registered and a note sent to the presenter explaining the Registrar's preference in this regard for future reference.

4. Processing Times

Companies House Belfast would like to assure all its customers that its priorities remains the quality and integrity of the register and the delivery of secure and speedy services to customers. As insolvency practitioners will be aware, Companies House Belfast receive significant volumes of paper documents and as such, it has to balance its priorities, ensuring that access to all the information is delivered quickly.

Companies House Belfast aims to process insolvency documents within 5 working days of receipt. Often documents are registered the same day we receive them (if they have been properly delivered).

It is possible to check if a document has been accepted through WebCheck on Companies House website at www.companieshouse.gov.uk by viewing the documents available for purchase. If you wish to view or purchase a copy of the registered document a fee will be applied. If a form is rejected, it will be returned to the Presenter with a covering letter explaining the reason(s) for the rejection.

If your query cannot be answered through WebCheck, please contact the Companies House Contact Centre on **0303 1234 500**.

Companies House Belfast continues to do its utmost to bring in changes that will benefit all its customers in the long term and to maintain high standards in the delivery of services.

5. Documents Submitted in Duplicate

Insolvency practitioners submit a great many documents in duplicate. There is no requirement under The Insolvency (Northern Ireland) Order 1989 to submit documents in duplicate.

Companies House Belfast will no longer return duplicate documents to the presenter, if the original is correctly registered, instead extra statutory duplicate documents will be recycled.

This is a waste of paper and also increases the cost of submission of the documents significantly for the insolvency practitioners. If insolvency practitioners require an acknowledgement, provision of a copy of the covering letter and an SAE will be sufficient.

6. Insolvency matters of interest to the Registrar

- Please reply to any correspondence or rejection letters promptly. Delay, especially at the outset of an insolvency, may result in the company being struck from the register. Please quote any reference given when replying to correspondence. If you are initiating an exchange on an insolvency issue, please address your remarks to the Liquidation Department.
- Enquiries regarding the filing of annual accounts and returns, when a company is subject to a voluntary arrangement, should be addressed to the Compliance Department at Companies House Belfast.
- Ensure that any documents submitted are of good quality, A4 size, in portrait mode and black lettering on white paper.
- Please do not write to the Registrar asking him to defer the dissolution of a company administratively. He has no powers to do so. Deferal can only be brought about by the instruction of the Department as per Article 169(2) of the Insolvency (Northern Ireland) Order 1989 or by order of court as per Article 166(3) of the Insolvency (Northern Ireland) Order 1989. You will waste precious time if you write to the Registrar first and any delays risk the company being dissolved.
- Note that no further documentation, other than that relating to a company's restoration, can be accepted for filing on the record of a dissolved company. If you require any further information on restoration, this can be obtained from the Restoration Section, Companies House, Belfast.

7. Companies "In Administration"

- **Form 2.16B—Notice of Statement of Affairs**

The most common reject issue with form 2.16B Notice of Statement of Affairs is because either the 2.14B—Statement of Affairs or 2.15B—Affidavit of Concurrence (or both) have not been attached to form 2.16B.

Form 2.16B asks you to delete the forms you are not attaching. Please ensure you indicate which documents you are enclosing as failure to do so will result in the Registrar returning the form to you.
- **Form 2.23B—Notice of Result of Creditors Meeting**

A common reject issue with form 2.23B Notice of Result of Creditors Meeting, is that we receive the form without copies of the proposals attached. Please note that we cannot register the form 2.23B without the proposals/revised proposals attached to the form. This is requirement even if the proposals have not changed since the filing of the form 2.17B—Statement of Administrator's Proposals.
- **Form 2.24B—Administrator's Progress Report**

Companies House Belfast has received a number of form 2.15—Administrator's Abstract of Receipts and Payments, when in fact the insolvency practitioner should file the form 2.24B.

Form 2.15 is specific to the old style Administration Orders and is not required for filing when the company is 'In Administration' under The Insolvency (Northern Ireland) Order 1989.

Please ensure you submit the form 2.24B in all In Administration cases.

■ **Form 2.34B—Notice of Move from Administration to Creditors’ Voluntary Liquidation (CVL)**

There seems to be confusion with this particular form amongst insolvency practitioners.

Insolvency practitioners are filing Forms 2.30B—Notice of Automatic End of Administration, Form 2.32B—Notice of End of Administration and/or Form 2.33B—Notice of Court Order Ending Administration, together with the Form 2.34B.

There is no requirement for insolvency practitioners to file Notice of End of Administration documents with this form. Form 2.34B has been designed along with the IT functionality at Companies House to close the Administration and start the CVL, both on the date that the Form 2.34B is **“registered”** at Companies House Belfast (ie the one form provides both functions).

Insolvency practitioners should note that this practice could have significant consequences for them if a Form 2.30B is filed with the Form 2.34B and they become separated in the Post Room, during the post-sort stage. It is possible that the Form 2.30B can be registered first, the Administration closed and the Form 2.34B can not then be registered. This means that the insolvency practitioner would then have to get an order from the court to allow the incorrectly filed document to be removed and the correct Form 2.34B filed. This can be time-consuming and costly for the insolvency practitioner.

Also, there is no need to file a Form VL1, 4.19, or Special Resolution, as the Form 2.34B performs the function of these three documents.

■ **Priority Requests for Registering Forms 2.34B—Move from Administration to CVL**

Companies House Belfast cannot take requests (under any circumstances) from insolvency practitioners to give priority to the registration of forms 2.34B. Any requests for priority treatment will be refused.

It should be noted that Companies House Belfast cannot give priority to any insolvency documents and the Liquidation Section cannot search the section, office or the building, for any forms.

It is important to re-iterate that the administration ceases to be effective and the liquidation starts when the correctly submitted form 2.34B is **registered, and not when the Form 2.34B is received in the office.

If for any reason the form 2.34B has to be returned to the insolvency practitioner for amendment, or to include attachments etc, the CVL will commence when the correctly submitted 2.34B is returned and registered at the later date.

■ **Form 2.35B—Notice of Move from Administration to Dissolution**

There are similar issues with this form as with the Form 2.34B. Insolvency practitioners send the End of Administration forms as well as Form 2.35B. Again there is no requirement to send any other form apart from Form 2.35B and any associated attachments, when the company moves from Administration to Dissolution. Companies House IT functionality automatically closes the Administration and sets the system to count down the relevant three months to Dissolution date.

Once again, if the forms are separated for any reason within Companies House and the End of Administration forms are registered first, the insolvency practitioner will need an order from the court to remove the incorrectly filed document.

NB: It is important to note that in respect of Forms 2.34B and 2.35B, Companies House Belfast accepts all documents in good faith. Therefore, if any other End of Administration documents are filed, correctly completed, they will be registered without exception. Once a document has been correctly filed it can only be removed with an order from the court. It should state that the incorrect form filed is a nullity and the document should be removed from the record, re Calmex Limited [1989] BCLC 299.

8. Members Voluntary Liquidation

Ensure that when filing documents to notify the Registrar of a Members' Voluntary Liquidation the date of the resolution is no more than 35 days after the date of the Declaration of Solvency. If it is outside this period the liquidation becomes a Creditors' Voluntary Liquidation.

- **Form 4.72—Return of Final Meeting in a Members' Voluntary Winding Up**
There seems to be some confusion regarding this form amongst insolvency practitioners.

Insolvency practitioners are filing Form 4.44—Notice of Final Meeting of Creditors (see Article 146(7) of the Insolvency (Northern Ireland) Order 1989) together with the Form 4.72. There is no need for insolvency practitioners to file Form 4.44—Notice of Final Meeting of Creditors with Form 4.72.

Form 4.72 has been designed along with the IT functionality at Companies House to dissolve the company and sets the system to count down the relevant three months to Dissolution date after the date the Form 4.72 is **registered** at Companies House.

The form 4.44 relates specifically to an insolvency practitioner who has ceased to act in a court winding up. If a Form 4.44 is submitted for a voluntary winding up case it will be rejected in all circumstances.

Please stop sending forms 4.44 with Forms 4.72. Form 4.44 should only be submitted when the company is subject to a Compulsory Liquidation and an insolvency practitioner has been appointed to act.

9. Creditor's Voluntary Liquidation Return of Final Meeting

■ Resolutions

All resolutions delivered to the Registrar are delivered under the Companies Act 2006. The requirement for filing extraordinary resolutions is no longer applicable and as such any resolutions filed in voluntary winding up should be special resolutions.

■ Form 4.20—Statement of Affairs Creditor's Voluntary Winding Up

Insolvency practitioners are filing form 4.20—Statement of Affairs Creditor's Voluntary Winding Up without form 4.21—Statement of Company's Affairs to Registrar of Companies (see Articles 81 and 85 of the Insolvency (Northern Ireland) Order 1989) and Rule 4.037-CVL (the Insolvency Rules (Northern Ireland) 1991).

A form 4.20 must always have the statement of affairs form attached to it for filing at Companies House.

■ Form 4.28—Certificate of Appointment of Liquidator by Meeting

Form 4.28 is not required to be registered at Companies House because there is no requirement under the Insolvency Rules (Northern Ireland) 1991 to submit this form to the Registrar of Companies.

In the interests of reducing your administrative burden and the cost to the Registrar in returning this information to the insolvency practitioner, please refrain from sending this extra documentation to us.

Any future Forms 4.28 sent to the Registrar will be recycled.

■ Form 4.73—Return of Final Meeting in a Creditor's Voluntary Winding Up

There are similar issues with the form 4.73 (see Article 92 of the Insolvency (Northern Ireland) Order 1989 as with the Form 4.72. Insolvency practitioners send Form 4.44 as well as Form 4.73. There is no need to send any other form apart from Form 4.73 and any associated attachments, when the company has had its final meeting. Form 4.73 has been designed along with the IT functionality at Companies House to dissolve the company and sets the system to count down the relevant three months to Dissolution date after the date the Form 4.73 is registered at Companies House, not the date it was received.

10. Form 4.41—Notice of Ceasing to Act as Voluntary Liquidator on MVL & CVL

There seems to be confusion over the form 4.41 amongst insolvency practitioners.

Insolvency practitioners are sending form 4.41 together with either Form 4.72 or Form 4.73.

Form 4.41 should only be completed when the insolvency practitioner is **ceasing to act** on the case. The MVL or CVL still exists and another insolvency practitioner is appointed to replace the existing insolvency practitioner.

There is no requirement to file the cease to act form when the final meeting has been held. The responsibility of the liquidator ceases on the filing of the forms 4.72 and 4.73 at Companies House.

11. LQ01—Appointment of an Administrative Receiver, Receiver or Manager

We have a high rejection rate on LQ01 forms in Belfast as insolvency practitioners are not completing the form correctly.

In Section 2 of form LQ01 please ensure the name of the chargee (name of the bank(s)/lender(s) on the charge certificate) is entered and their address in full. Also, ensure the full name(s) and address of the person appointed to act on behalf of the bank are stated in full. The date of appointment is the date the bank(s)/lender(s) appointed the Administrative Receiver, Receiver or Manager to act on their behalf.

The date of the instrument is the date of the charge/mortgage/legal charge. Ensure the date of instrument relates to the date of the charge (check the certificate if you are unsure or our mortgage index available on our website www.companieshouse.gov.uk) and the description of the instrument is either mortgage/legal charge/charge etc and we require the specific property and/or folio number so we can appoint the administrative receiver, receiver or manager over the correct charge.

The property address and/or folio number is important, especially when the company has more than one charge issued on the same day.

One LQ01 Form is required for each charge that the receiver is appointed over, not per property contained within the charge.

Contact

Any queries regarding this article should be directed to our Help Desk
0303 1234 500 (Please ask to speak to our Liquidation Section in Belfast).

Alternatively address your written queries to:

Liquidation Section
Second Floor, The Linenhall
32-38 Linenhall Street
Belfast
Northern Ireland
BT2 8BG

Our DX number remains the same DX 481 NR Belfast 1

email **enquiries@companieshouse.gov.uk** (Please mark your email FAO
Liquidation Section Belfast).