European Insolvency Regulation – Publication and Registration Requirements

1.   *What are the publication procedures in your jurisdiction for notice of the opening of insolvency proceedings?*

Publication procedures have been provided by inserting Sections 227A and 227 B to the Companies Act 1963. In the first instance, 227A, (1) provides that a liquidator appointed in insolvency proceedings who intends –

(a) to request under Article 21 of the Regulation that notice of the judgment opening the proceedings and, where appropriate, the decision appointing him or her be published in the State, or

(b) to take any other action in the State under the Regulation,

shall deliver to the Registrar of Companies for registration a duly certified copy of the judgment and, where appropriate, of the decision appointing the liquidator.

Section 227 B provides for publication of –

(a)   notice of the judgment opening the insolvency proceedings concerned,

(b)   where appropriate, the decision appointing the liquidator in those proceedings,

(c)   the name and business address of the liquidator, and

(d)   the provision (either paragraph 1 or paragraph 2) of Article 3 of the Insolvency Regulation giving jurisdiction to open the proceedings,

in the Companies Registration Office Gazette and once at least in two daily morning newspapers circulating in the State.

2.   *What should a liquidator from another member State do in practice to arrange publication in your jurisdiction of notice under article 21 (1)?*

In practice the liquidator is likely to require the assistance of a local agent to ensure compliance although the liquidator can readily contact the Companies Registration Office and daily newspapers directly.

3.   *If a debtor has an establishment in your jurisdiction, is it mandatory to publish there notice of the opening of insolvency proceedings in another Member State, in accordance with Art 21(2), and if so do the procedures vary from those described in 1) and 2) above?*

Yes, Section 227 B (3) of the Companies Act 1963 mandates publication by *"the liquidator or any authority mentioned in Article 21(2) of the Regulation ... as soon as practicable after the opening of the insolvency proceedings."*

4. *In what public registers (e.g. land register, trade register) in your jurisdiction may a judgement opening main insolvency proceedings be registered?*

Section 227 A of the Companies Act 1963 provides for registration in the Companies Registration Office only. Having said that, however, Section 5 of the European Communities (Corporate Insolvency) Regulations 2002 provides that a request by a liquidator under Article 22 that the Judgment opening the insolvency proceedings be registered in a public register shall be made to the person or authority responsible for keeping the register concerned. This clearly anticipates registration in a wider, though unspecified, range of public registers.

5. *What should a liquidator from another member state do in practice to register in your jurisdiction a judgment opening main insolvency proceedings under Art 22 (1)?*

In practice the liquidator is likely to require the assistance of a local agent to ensure compliance. Alternatively the liquidator should contact the Companies Registration Office directly and deliver a duly certified copy of the judgment and, where appropriate, of the decision appointing the liquidator. Registration on another public register may depend on the proposed actions of the liquidator, e.g. disposal of land.

6. *If a debtor has an establishment in your jurisdiction, is it mandatory to register there notice of the opening of main insolvency proceedings in another Member State, in accordance with Art 22(2), and if so do the procedures vary from those described in 4) and 5) above?*

The Irish regulations do not specifically provide for mandatory registration. It is in effect a requirement, however, because publication in such circumstances is mandatory where a debtor has an establishment here and regulation publication Office. The procedure is as set out above.

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