

SCHEDULE

PART 4

Amendments to the Insolvency (England and Wales) Rules 2016

46. The Insolvency (England and Wales) Rules 2016⁽¹⁾ are amended as follows.

47. In rule 1.2(2)—

(a) omit the following definitions—

- (i) “main proceedings”,
- (ii) “member State liquidator”,
- (iii) “non-EU proceedings”,
- (iv) “secondary proceedings”,
- (v) “temporary administrator”,
- (vi) “territorial proceedings”;

(b) insert in the appropriate places—

““COMI proceedings” means insolvency proceedings in England and Wales to which the EU Regulation applies where the centre of the debtor’s main interests is in the United Kingdom;

“establishment” has the same meaning as in Article 2(10) of the EU Regulation;

“establishment proceedings” means insolvency proceedings in England and Wales to which the EU Regulation applies where the debtor has an establishment in the United Kingdom;”.

48.—(1) Rule 1.7 is amended as follows⁽²⁾.

(2) For the heading substitute “Reasons for stating whether proceedings are or will be COMI proceedings, establishment proceedings etc.”.

(3) In the opening words for “main, secondary or territorial or non-EU proceedings” substitute “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” and after “must include” insert “as applicable”.

(4) In paragraph (a)—

(a) at the end of sub-paragraph (ii) omit “or”;

(b) after sub-paragraph (ii) insert—

“(ia) the place where there is an establishment within the jurisdiction, or”; and

(c) in sub-paragraph (iii) for “non-EU proceedings” substitute “proceedings to which the EU Regulation as it has effect in the law of the United Kingdom does not apply”.

(5) For sub-paragraph (b) substitute—

“(b) for a debtor—

(i) the centre of main interests, or

(ii) the place where there is an establishment within the jurisdiction.”.

(1) [S.I. 2016/1024](#), relevant amendments were made by [S.I. 2017/702](#).

(2) Rule 1.7 has been amended by [S.I. 2017/1115](#).

- 49.** In rule 1.20 delete paragraph (1)(o).
- 50.** In rule 2.3 in paragraph (1) for sub-paragraph (q) substitute—
- “(q) whether the proceedings will be 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 with reasons;”.
- 51.** In rule 2.14 in paragraph (2A)(3) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 52.** In rule 2.25 in paragraph (2A)(4) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 53.** In rule 2.38(5) in paragraph (2) in sub-paragraph (d) for “main, territorial or non-EU proceedings” substitute “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”.
- 54.** In rule 3.3 in paragraph (2) in sub-paragraph (h) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 55.** In rule 3.6 in paragraph (3) in sub-paragraph (f) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 56.** In rule 3.8 omit paragraph (3)(c).
- 57.** In rule 3.10 in sub-paragraph (b) omit “(including the United Kingdom)” and “other than the United Kingdom”.
- 58.** In rule 3.12 omit paragraph (1)(g).
- 59.** In rule 3.13 in paragraph (1)—
- (a) in sub-paragraph (h) after “EU Regulation” insert “as it has effect in the law of the United Kingdom”; and
- (b) in sub-paragraph (i) for “main, secondary or territorial proceedings” substitute “COMI proceedings or establishment proceedings”.
- 60.** In rule 3.16 in paragraph (2) in sub-paragraph (k) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 61.** In rule 3.17 in paragraph (1) in sub-paragraph (k) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 62.** In rule 3.21 in paragraph (1) in sub-paragraph (i) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 63.** In rule 3.23 in paragraph (1) in sub-paragraph (i) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

(3) In rule 2.14 paragraph (2A) was inserted by [S.I. 2017/702](#) and amended by [S.I. 2017/1115](#).

(4) In rule 2.25 paragraph (2A) was inserted by [S.I. 2017/702](#).

(5) In rule 2.38 paragraph (2)(d) was amended by [S.I. 2017/1115](#).

64. In rule 3.24 in paragraph (1) in sub-paragraph (h) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

65. In rule 3.25 in paragraph (2) in sub-paragraph (i) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

66. In rule 3.35 in paragraph (1) in sub-paragraph (m) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

67. In rule 3.51 in paragraph (2) in sub-paragraph (g) omit “costs referred to in Articles 30 or 59 of the EU Regulation and”.

68. In rule 3.63 in paragraph (4) omit sub-paragraph (d).

69. In rule 3.68 in paragraph (2) omit sub-paragraph (g).

70. In rule 6.42 in paragraph (4)(f) omit “costs referred to in Articles 30 or 59 of the EU Regulation and”.

71. In rule 7.5 in paragraph (1) in sub-paragraph (n) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

72. In rule 7.6 in paragraph (8) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

73. In rule 7.9 in paragraph (3)—

- (a) insert after sub-paragraph (b) “or”, and
- (b) omit sub-paragraph (d) and the “or” preceding it.

74. In rule 7.17 omit paragraph (2)(b) and the “or” preceding it.

75. In rule 7.18 in sub-paragraph (c) —

- (a) insert “or” before “contributory”, and
- (b) omit “or member State liquidator”.

76. In rule 7.20 in paragraph (1) in sub-paragraph (g) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

77. In rule 7.26 in paragraph (1) in sub-paragraph (n) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

78. In rule 7.28 in paragraph (6) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

79. In rule 7.29 omit paragraph (6).

80. In rule 7.32 in paragraph (1) sub-paragraph (h) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

81. In rule 7.33—

- (a) after paragraph (1)(f) insert “or”;

- (b) omit paragraph (1)(g); and
 - (c) in paragraph (2)(f) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 82.** In rule 7.35 in paragraph (1) in sub-paragraph (e)(ii) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 83.** In rule 7.108 in paragraph (4) in sub-paragraph (m) omit “costs referred to in Articles 30 or 59 of the EU Regulation and”.
- 84.** In rule 8.3 in paragraph (q) for “main, territorial or non-EU proceedings” substitute “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”.
- 85.** In rule 8.19 in paragraph (1A) for “main, secondary, territorial or non-EU proceedings” substitute “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”.
- 86.** In rule 10.7 in paragraph (1) for sub-paragraph (d) substitute—
- “(d) whether—
 - (i) the centre of the debtor’s main interests is within the United Kingdom or is within a member State;
 - (ii) the centre of the debtor’s main interests is neither within the United Kingdom nor a member State;
 - (iii) the debtor has an establishment within the United Kingdom;
 - (iv) the debtor carries on business as an Article 1.2 undertaking;”.
- 87.** In rule 10.8 in paragraph (1) in sub-paragraph (g) for “another” substitute “the UK or a”.
- 88.** In rule 10.12 in paragraph (4)—
- (a) at the end of sub-paragraph (a) insert “and”; and
 - (b) omit sub-paragraph (c) and the “and” preceding it.
- 89.** In rule 10.14 omit paragraph (3).
- 90.** In rule 10.19—
- (a) in paragraph (1) omit the words from “or a member State liquidator” to “in relation to the debtor”;
 - (b) in paragraph (2) in sub-paragraph (f) omit the words “or member State liquidator”.
- 91.** In rule 10.29—
- (a) in paragraph (2) in sub-paragraph (a) omit the words from “or a member State liquidator” to “in relation to the debtor”; and
 - (b) in paragraph (6) in sub-paragraph (d) omit the words from “or a member State liquidator” to “in relation to the debtor”.
- 92.** In rule 10.31 in paragraph (1) for sub-paragraph (e)(i) substitute—
- “(i) that the court, being satisfied that the EU Regulation as it has effect in the law of the United Kingdom applies, declares that the proceedings are COMI proceedings or establishment proceedings, or”.
- 93.** In rule 10.41 in paragraph (2) for sub-paragraph (d)(i) substitute—

“(i) that the adjudicator, being satisfied that the EU Regulation as it has effect in the law of the United Kingdom applies, declares that the proceedings are COMI proceedings or establishment proceedings, or”.

94. In rule 10.49—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (b) insert “or”; and

(ii) omit sub-paragraph (d) and the “or” preceding it; and

(b) in paragraph (2) in sub-paragraph (f) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

95. In rule 10.51 in paragraph (1) in sub-paragraph (e)(ii) for “main, secondary, territorial or non-EU proceedings” substitute “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”.

96. In rule 10.149 in sub-paragraph (n) omit the words “costs referred to in Article 30 of the EU Regulation and”.

97. In rule 12.15 in paragraph (2) omit “including any member State liquidator”.

98. In rule 14.16 omit paragraph (3).

99. In rule 14.32 omit paragraph (4).

100. In rule 15.11 in the table in paragraph (1) omit the entry for “Main proceedings in another member State”.

101. In rule 15.28 in paragraph (3) omit sub-paragraph (b) and the “or” preceding it.

102. Omit rule 15.30.

103. In rule 15.31—

(a) in paragraph (7) omit the words from “; and for this purpose” to the end; and

(b) in paragraph (9) in the opening words omit “or member State liquidator”.

104. Omit rules 21.1 to 21.3(6).

105. In rule 21.4 for paragraph (3)(e) substitute—

“(e) a statement whether the proceedings will be 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 and the reasons for so stating.”.

106. Omit rules 21.6 to 21.17.

107. In Schedule 4 in the table of requirements for service in paragraph 6 omit the entry relating to rule 21.2 (application for conversion into winding up/ bankruptcy under EU Regulation).