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STATUTORY INSTRUMENTS

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**2002 No. 1307**

**The Insolvency (Amendment) Rules 2002**

**Amendments to the Insolvency Rules 1986 in relation to Individual Voluntary Arrangements**

- 7.—(1) After Rule 5.3(2)(p) (contents of proposal) insert—
- “(q) whether the EC Regulation will apply and, if so, whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings.”.
- (2) In Rule 5.22(2) (report of creditors' meeting)—
- (a) at the end of sub-paragraph (c) omit “and”; and
- (b) after sub-paragraph (c) insert—
- “(ca) whether, in the opinion of the supervisor, (i) the EC Regulation applies to the voluntary arrangement and (ii) if so, whether the proceedings are main proceedings, secondary proceedings or territorial proceedings; and”.
- (3) After Rule 5.30 (false representations, etc) insert—

*“SECTION E:*

*EC REGULATION—CONVERSION OF VOLUNTARY ARRANGEMENT INTO BANKRUPTCY*

*Application for conversion into bankruptcy*

**5.31.**—(1) Where a member State liquidator proposes to apply to the court for the conversion under Article 37 of the EC Regulation (conversion of earlier proceedings) of a voluntary arrangement into bankruptcy, an affidavit complying with Rule 5.32 must be prepared and sworn, and filed in court in support of the application.

- (2) An application under this Rule shall be by originating application.
- (3) The application and the affidavit required under this Rule shall be served upon—
- (a) the debtor; and
- (b) the supervisor.

*Contents of affidavit*

- 5.32.**—(1) The affidavit shall state—
- (a) that main proceedings have been opened in relation to the debtor in a member State other than the United Kingdom;
- (b) the deponent's belief that the conversion of the voluntary arrangement into a bankruptcy would prove to be in the interests of the creditors in the main proceedings; and
- (c) all other matters that, in the opinion of the member State liquidator, would assist the court—

- (i) in deciding whether to make an order under Rule 5.33, and
  - (ii) if the court were to do so, in considering the need for any consequential provision that would be necessary or desirable.
- (2) An affidavit under this Rule shall be sworn by, or on behalf of, the member State liquidator.

*Power of court*

- 5.33.**—(1) On hearing the application for conversion into bankruptcy the court may make such order as it thinks fit.
- (2) If the court makes an order for conversion into bankruptcy the order may contain all such consequential provisions as the court deems necessary or desirable.
- (3) Where the court makes an order for conversion into bankruptcy under paragraph (1), any expenses properly incurred as expenses of the administration of the voluntary arrangement in question shall be a first charge on the bankrupt's estate.

*SECTION F:*

*EC REGULATION—MEMBER STATE LIQUIDATOR*

*Interpretation of creditor and notice to member State liquidator*

- 5.34.**—(1) This Rule applies where a member State liquidator has been appointed in relation to the debtor.
- (2) Where the supervisor is obliged to give notice to, or provide a copy of a document (including an order of court) to, the court or the official receiver, the supervisor shall give notice or provide copies, as appropriate, to the member State liquidator.
- (3) Paragraph (2) is without prejudice to the generality of the obligations imposed by Article 31 of the EC Regulation (duty to cooperate and communicate information).”.