
STATUTORY INSTRUMENTS

2006 No. 1030

The Cross-Border Insolvency Regulations 2006

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Cross-Border Insolvency Regulations 2006 and shall come into force on the day after the day on which they are made.

(2) In these Regulations “the UNCITRAL Model Law” means the Model Law on cross-border insolvency as adopted by the United Nations Commission on International Trade Law on 30th May 1997.

UNCITRAL Model Law to have force of law

2.—(1) The UNCITRAL Model Law shall have the force of law in Great Britain in the form set out in Schedule 1 to these Regulations (which contains the UNCITRAL Model Law with certain modifications to adapt it for application in Great Britain).

(2) Without prejudice to any practice of the courts as to the matters which may be considered apart from this paragraph, the following documents may be considered in ascertaining the meaning or effect of any provision of the UNCITRAL Model Law as set out in Schedule 1 to these Regulations—

- (a) the UNCITRAL Model Law;
- (b) any documents of the United Nations Commission on International Trade Law and its working group relating to the preparation of the UNCITRAL Model Law; and
- (c) the Guide to Enactment of the UNCITRAL Model Law (UNCITRAL document A/CN.9/442)(1) prepared at the request of the United Nations Commission on International Trade Law made in May 1997.

Modification of British insolvency law

3.—(1) British insolvency law (as defined in article 2 of the UNCITRAL Model Law as set out in Schedule 1 to these Regulations) and Part 3 of the Insolvency Act 1986(2) shall apply with such modifications as the context requires for the purpose of giving effect to the provisions of these Regulations.

(2) In the case of any conflict between any provision of British insolvency law or of Part 3 of the Insolvency Act 1986 and the provisions of these Regulations, the latter shall prevail.

Procedural matters in England and Wales

4. Schedule 2 to these Regulations (which makes provision about procedural matters in England and Wales in connection with the application of the UNCITRAL Model Law as set out in Schedule 1 to these Regulations) shall have effect.

(1) A United Nations Publication, ISBN 92-1-133608-2.

(2) 1986 c. 45.

Procedural matters in Scotland

5. Schedule 3 to these Regulations (which makes provision about procedural matters in Scotland in connection with the application of the UNCITRAL Model Law as set out in Schedule 1 to these Regulations) shall have effect.

Notices delivered to the registrar of companies

6. Schedule 4 to these Regulations (which makes provision about notices delivered to the registrar of companies under these Regulations) shall have effect.

Co-operation between courts exercising jurisdiction in relation to cross-border insolvency

7.—(1) An order made by a court in either part of Great Britain in the exercise of jurisdiction in relation to the subject matter of these Regulations shall be enforced in the other part of Great Britain as if it were made by a court exercising the corresponding jurisdiction in that other part.

(2) However, nothing in paragraph (1) requires a court in either part of Great Britain to enforce, in relation to property situated in that part, any order made by a court in the other part of Great Britain.

(3) The courts having jurisdiction in relation to the subject matter of these Regulations in either part of Great Britain shall assist the courts having the corresponding jurisdiction in the other part of Great Britain.

Disapplication of section 388 of the Insolvency Act 1986

8. Nothing in section 388 of the Insolvency Act 1986(3) applies to anything done by a foreign representative—

- (a) under or by virtue of these Regulations;
- (b) in relation to relief granted or cooperation or coordination provided under these Regulations.

Gerry Sutcliffe
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs,
Department of Trade and Industry

3rd April 2006

I agree to the making of these Regulations 29th March 2006

Falconer of Thoroton, C

(3) Section 388 is amended by section 11 of the Bankruptcy (Scotland) Act 1993 (c. 6), section 4 of the Insolvency Act 2000 (c. 39), S.I. 1994/2421, 2002/2708 and 2002/1240.

The Scottish Ministers agree to the making of these Regulations

30th March 2006

Allan Wilson
A member of the Scottish Executive