

SCHEDULE

Regulation 2

Amendments to the Insolvency (Amendment) (EU Exit) Regulations 2019

1. The Insolvency (Amendment) (EU Exit) Regulations 2019 are amended as follows.
2. In regulation 3—
 - (a) omit paragraph (a); and
 - (b) in paragraph (b) for “that Act” substitute “the Insolvency Act 1986”.
3. In Part 1 of the Schedule (amendment of retained direct EU legislation), for paragraph 7 substitute “Omit Articles 6 to 83”.
4. In Part 7 of the Schedule (amendments to the Insolvency Act 1986 applying to Scotland only) omit paragraphs 134, 135, 136 and 138.
5. Omit Part 8 of the Schedule (amendments to the Insolvency (Scotland) Rules 1986).
6. After paragraph 137 of the Schedule, insert the following new Parts:

“PART 8A

Amendments to the Insolvency (Scotland) (Receivership and Winding up) Rules 2018

137A. The Insolvency (Scotland) (Receivership and Winding up) Rules 2018(1) are amended as follows.

137B.—(1) In rule 1.2(1)—

- (a) omit the following definitions—
 - (i) “local creditor”,
 - (ii) “main proceedings”,
 - (iii) “member State liquidator”,
 - (iv) “non-EU proceedings”,
 - (v) “secondary proceedings”,
 - (vi) “temporary administrator”,
 - (vii) “territorial proceedings”;
- (b) in the note in square brackets which explains the definition of “EU Regulation” omit the words after “section 436”;
- (c) insert in the appropriate places—

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

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137C.—(1) Rule 1.8 is amended as follows.

(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) After paragraph (b) insert—

“(ba) the place where there is an establishment within the jurisdiction; or”.

(5) In paragraph (c) 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”.

137D. In rule 1.17 omit paragraph (2)(i).

137E. In rule 5.4—

- (a) after paragraph (1)(f) insert “or”;
- (b) omit paragraph (1)(g);
- (c) omit paragraph (1)(h).

137F. In rule 7.16 omit paragraph (3)(k).

137G. In rule 7.28 in paragraph (3)(a) omit “including any costs referred to in Article 30 and 59 of the EU Regulation”.

137H. In rule 7.31 omit paragraph (14).

137I. In rule 8.11 in the table in paragraph (1) omit the entry for “main proceedings in another Member State”.

137J. Omit rule 8.30.

137K. In rule 8.31—

- (a) in paragraph (5) omit the words from “; and for this purpose” to the end; and
- (b) in paragraph (7) in the opening words omit “or member State liquidator”.

137L. Omit rules 11.1 to 11.3.

137M. In rule 11.4 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.”.

137N. Omit rules 11.6 to 11.17.

PART 8B

Amendments to the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018

137O. The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018(2) are amended as follows.

137P. In rule 1.2(1)—

(a) omit the following definitions—

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

(b) insert in the appropriate places—

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

137Q.—(1) Rule 1.8 is amended as follows.

(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, 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”.

(4) In paragraph (b) omit the word “or”.

(5) After paragraph (b) insert—

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

(6) In paragraph (c) 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”.

137R. In rule 1.17 omit paragraph (1)(i).

137S. In rule 2.3 in the table in paragraph (1), in the second column of the entry for “Type of insolvency proceedings”, for “whether the insolvency proceedings will be main, secondary, territorial or non-EU insolvency proceedings with reasons;” substitute—

“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;”.

137T. In rule 2.13 in paragraph (5) 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”.

137U. In rule 2.24 in paragraph (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”.

137V. In rule 2.37 in paragraph (2) in sub-paragraph (d) for “main, secondary, territorial or non-EU proceedings” substitute “COMI proceedings, establishment proceedings or

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proceedings to which the EU Regulation as it has effect in the law of the United Kingdom does not apply”.

137W. In rule 3.6 omit paragraph (c).

137X. In rule 3.8 in paragraph (b) omit “(including the United Kingdom)” and “other than the United Kingdom”.

137Y. In rule 3.10 omit paragraph (g).

137Z. In rule 3.11 in paragraph (1)—

- (a) in sub-paragraph (g) after “EU Regulation” insert “as it has effect in the law of the United Kingdom”; and
- (b) in sub-paragraph (h) for “main, secondary or territorial proceedings” substitute “COMI proceedings or establishment proceedings”.

137ZA. 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”.

137ZB. 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”.

137ZC. In rule 3.21 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”.

137ZD. 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”.

137ZE. 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”.

137ZF. 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”.

137ZG. 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”.

137ZH. 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”.

137ZI. In rule 3.63 in paragraph (4) omit sub-paragraph (d).

137ZJ. In rule 3.68 in paragraph (2) omit sub-paragraph (g).

137ZK. In rule 3.105 in paragraph (3) omit sub-paragraph (k).

137ZL. In rule 3.117 omit paragraph (11).

137ZM. In rule 5.11 in the table in paragraph (1) omit the entry for “main proceedings in another member State”.

137ZN. Omit rule 5.27.

137ZO. In rule 5.28—

(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”.

137ZP. Omit Part 7 (the EU Regulation).”.