

2020 No. 647

EXITING THE EUROPEAN UNION
INSOLVENCY

The Insolvency (Amendment) (EU Exit) Regulations 2020

Made - - - - - *26th June 2020*

Laid before Parliament *30th June 2020*

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8B(1)(a) of the European Union (Withdrawal) Act 2018(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Insolvency (Amendment) (EU Exit) Regulations 2020.

(2) These Regulations come into force immediately before IP completion day.

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

2. The Insolvency (Amendment) (EU Exit) Regulations 2019(c) are amended as follows—

(a) in regulation 4—

(i) in paragraph (1) omit “Subject to regulation 5” and subparagraph (a),

(ii) for paragraph (2) substitute—

“(2) The amendments made by these Regulations do not apply in respect of any insolvency proceedings and actions falling within Article 67(3)(c) of the withdrawal agreement.”, and

(iii) omit paragraphs (3), (4) and (5);

(b) omit regulation 5.

26th June 2020

Callanan
Minister for Small Business, Consumers and Labour Markets
Department for Business, Energy and Industrial Strategy

(a) Section 8B was inserted by section 18 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).
(b) 2018 c. 16.
(c) S.I. 2019/146.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insolvency (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/146) (“the 2019 Regulations”). Those Regulations are stated to come into force on exit day (with limited exceptions). Paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1) provides that references to subordinate legislation coming into force on exit day are to be read instead as references to coming into force on IP completion day.

The amendments made by these Regulations give effect to Article 67(3)(c) of the Withdrawal Agreement. This provides that the EU Insolvency Regulation (Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings) will continue to apply in respect of main proceedings (as defined in that Regulation) opened before IP completion day. These Regulations remove the saving in regulation 4 of the 2019 Regulations for the EU Insolvency Regulation (and its predecessor Regulation EC 1346/2000) as that is provided for by the Withdrawal Agreement. They also omit regulation 5 which permitted a court to depart from applying the EU Insolvency Regulation where UK interests were prejudiced by a member State not treating the UK as a member State. That is no longer needed as the Withdrawal Agreement provides that the UK will be treated as a member State in respect of insolvency proceedings opened before the end of the implementation period.

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