SCHEDULE

PART 4

Amendments to the Insolvency (England and Wales) Rules 2016

46. The Insolvency (England and Wales) Rules 2016 M1 are amended as follows.

Commencement Information

I1 Sch. para. 46 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Marginal Citations

M1 S.I. 2016/1024, relevant amendments were made by S.I. 2017/702.

- **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;".

- 12 Sch. para. 47 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **48.**—(1) Rule 1.7 is amended as follows ^{M2}.
- (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—
 - "(iia) 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.".

13 Sch. para. 48 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Marginal Citations

- **M2** Rule 1.7 has been amended by S.I. 2017/1115.
- **49.** In rule 1.20 delete paragraph (1)(o).

Commencement Information

- I4 Sch. para. 49 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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;".

Commencement Information

- I5 Sch. para. 50 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **51.** In rule 2.14 in paragraph (2A) ^{M3} 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".

Commencement Information

Sch. para. 51 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Marginal Citations

- M3 In rule 2.14 paragraph (2A) was inserted by S.I. 2017/702 and amended by S.I. 2017/1115.
- **52.** In rule 2.25 in paragraph (2A) ^{M4} 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".

17 Sch. para. 52 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Marginal Citations

M4 In rule 2.25 paragraph (2A) was inserted by S.I. 2017/702.

53. In rule 2.38 ^{M5} 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".

Commencement Information

18 Sch. para. 53 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Marginal Citations

M5 In rule 2.38 paragraph (2)(d) was amended by S.I. 2017/1115.

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".

Commencement Information

- I9 Sch. para. 54 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- 110 Sch. para. 55 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **56.** In rule 3.8 omit paragraph (3)(c).

Commencement Information

- III Sch. para. 56 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **57.** In rule 3.10 in sub-paragraph (b) omit "(including the United Kingdom)" and "other than the United Kingdom".

- 112 Sch. para. 57 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **58.** In rule 3.12 omit paragraph (1)(g).

- I13 Sch. para. 58 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I14 Sch. para. 59 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I15 Sch. para. 60 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- 116 Sch. para. 61 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- 117 Sch. para. 62 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

- I18 Sch. para. 63 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

- I19 Sch. para. 64 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I20 Sch. para. 65 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I21 Sch. para. 66 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I22 Sch. para. 67 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **68.** In rule 3.63 in paragraph (4) omit sub-paragraph (d).

Commencement Information

- I23 Sch. para. 68 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **69.** In rule 3.68 in paragraph (2) omit sub-paragraph (g).

Commencement Information

- 124 Sch. para. 69 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **70.** In rule 6.42 in paragraph (4)(f) omit "costs referred to in Articles 30 or 59 of the EU Regulation and".

- I25 Sch. para. 70 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

I26 Sch. para. 71 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

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".

Commencement Information

- I27 Sch. para. 72 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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.

Commencement Information

- 128 Sch. para. 73 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **74.** In rule 7.17 omit paragraph (2)(b) and the "or" preceding it.

Commencement Information

- 129 Sch. para. 74 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- 75. In rule 7.18 in sub-paragraph (c)
 - (a) insert " or " before "contributory", and
 - (b) omit "or member State liquidator".

Commencement Information

- I30 Sch. para. 74 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

- I31 Sch. para. 76 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- 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".

- I32 Sch. para. 77 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I33 Sch. para. 78 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **79.** In rule 7.29 omit paragraph (6).

Commencement Information

- I34 Sch. para. 79 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

I35 Sch. para. 80 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

- **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".

Commencement Information

- I36 Sch. para. 81 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

- 137 Sch. para. 82 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

I38 Sch. para. 83 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

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".

Commencement Information

- I39 Sch. para. 84 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I40 Sch. para. 85 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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;".

Commencement Information

- I41 Sch. para. 86 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- 87. In rule 10.8 in paragraph (1) in sub-paragraph (g) for "another" substitute " the UK or a ".

Commencement Information

- I42 Sch. para. 87 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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.

- 143 Sch. para. 88 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **89.** In rule 10.14 omit paragraph (3).

I44 Sch. para. 89 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(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".

Commencement Information

145 Sch. para. 90 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

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".

Commencement Information

146 Sch. para. 91 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

- 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".

Commencement Information

I47 Sch. para. 92 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

- 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".

Commencement Information

148 Sch. para. 93 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

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 ".

Commencement Information

- I49 Sch. para. 94 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **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".

Commencement Information

- I50 Sch. para. 95 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **96.** In rule 10.149 in sub-paragraph (n) omit the words "costs referred to in Article 30 of the EU Regulation and".

Commencement Information

- Sch. para. 96 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- 97. In rule 12.15 in paragraph (2) omit "including any member State liquidator".

Commencement Information

- 152 Sch. para. 97 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **98.** In rule 14.16 omit paragraph (3).

Commencement Information

- 153 Sch. para. 98 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **99.** In rule 14.32 omit paragraph (4).

Commencement Information

- 154 Sch. para. 99 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- **100.** In rule 15.11 in the table in paragraph (1) omit the entry for "Main proceedings in another member State".

- Sch. para. 100 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)
- 101. In rule 15.28 in paragraph (3) omit sub-paragraph (b) and the "or" preceding it.

I56 Sch. para. 101 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

102. Omit rule 15.30.

Commencement Information

I57 Sch. para. 102 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

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".

Commencement Information

I58 Sch. para. 103 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

104. Omit rules 21.1 to 21.3 M6.

Commencement Information

I59 Sch. para. 104 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Marginal Citations

M6 Part 21 was amended by S.I. 2017/702.

- **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.".

Commencement Information

Sch. para. 105 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

106. Omit rules 21.6 to 21.17.

Commencement Information

Sch. para. 106 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

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).

Commencement Information

62 Sch. para. 107 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(3)

Changes to legislation:
There are currently no known outstanding effects for the The Insolvency (Amendment) (EU Exit)
Regulations 2019, PART 4.