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STATUTORY INSTRUMENTS

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**2002 No. 1307**

**The Insolvency (Amendment) Rules 2002**

**Amendment to Insolvency Rules in relation to Part 7 (court procedure and practice) and Part 8 (proxies and company representation)**

9.—(1) After Chapter 9 of Part 7 (court procedure and practice—general) insert—

“CHAPTER 10

EC REGULATION—CREDITORS' VOLUNTARY  
WINDING UP—CONFIRMATION BY THE COURT

*Application for confirmation*

7.62.—(1) Where a company has passed a resolution for voluntary winding up, and no declaration under section 89 has been made, the liquidator may apply to court for an order confirming the creditors' voluntary winding up for the purposes of the EC Regulation.

(2) The application shall be in writing and verified by affidavit by the liquidator (using [FORM 7.20] the same form) and shall state—

- (a) the name of the applicant,
- (b) the name of the company and its registered number,
- (c) the date on which the resolution for voluntary winding up was passed,
- (d) that the application is accompanied by all of the documents required under paragraph (3) which are true copies of the documents required, and
- (e) that the EC Regulation will apply to the company and whether the proceedings will be main proceedings, territorial proceedings or secondary proceedings.

(3) The liquidator shall file in court two copies of the application, together with one copy of the following—

- (a) a copy of the resolution for voluntary winding up referred to by section 84(3),
- (b) evidence of his appointment as liquidator of the company, and
- (c) a copy of the statement of affairs required under section 99.

(4) It shall not be necessary to serve the application on, or give notice of it to, any person.

(5) On an application under this Rule the court may confirm the creditors' voluntary winding up.

(6) If the court confirms the creditor's voluntary winding up—

- (a) it may do so without a hearing,
- (b) it shall affix its seal to the application.

(7) A member of the court staff may deal with an application under this Rule.

*Notice to member State liquidator and creditors in member States*

**7.63.** Where the court has confirmed the creditors' voluntary winding up, the liquidator shall forthwith give notice—

- (a) if there is a member State liquidator in relation to the company, to the member State liquidator;
- (b) in accordance with Article 40 of the EC Regulation (duty to inform creditors).

## CHAPTER 11

### EC REGULATION—MEMBER STATE LIQUIDATOR

*Interpretation of creditor*

**7.64.**—(1) This Rule applies where a member State liquidator has been appointed in relation to a person subject to insolvency proceedings.

(2) For the purposes of the Rules referred to in paragraph (3) a member State liquidator appointed in main proceedings is deemed to be a creditor.

(3) The Rules referred to in paragraph (2) are Rules 7.31(1) (right to inspect court file) and 7.53(1) (right of attendance).

(4) Paragraphs (2) and (3) are without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).".

(2) After Rule 8.7 (company representation) insert—

“Interpretation of creditor

**8.8.**—(1) This Rule applies where a member State liquidator has been appointed in relation to a person subject to insolvency proceedings.

(2) For the purposes of rule 8.5(1) (right of inspection of proxies) a member State liquidator appointed in main proceedings is deemed to be a creditor.

(3) Paragraph (2) is without prejudice to the generality of the right to participate referred to in paragraph 3 of Article 32 of the EC Regulation (exercise of creditor's rights).".