### STATUTORY INSTRUMENTS

### 2006 No. 1030

### INSOLVENCY

# COMPANIES INDIVIDUALS

### The Cross-Border Insolvency Regulations 2006

Made - - - - 3rd April 2006 Coming into force 4th April 2006

### THE CROSS-BORDER INSOLVENCY REGULATIONS 2006

- 1. Citation, commencement and interpretation
- 2. UNCITRAL Model Law to have force of law
- 3. Modification of British insolvency law
- 4. Procedural matters in England and Wales
- 5. Procedural matters in Scotland
- 6. Notices delivered to the registrar of companies
- 7. Co-operation between courts exercising jurisdiction in relation to cross-border insolvency
- 8. Disapplication of section 388 of the Insolvency Act 1986 Signature

SCHEDULE 1 — UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY CHAPTER I — General Provisions

### Article 1. Scope of Application

- 1. This Law applies where—(a) assistance is sought in Great...
- 2. This Law does not apply to a proceeding concerning—
- 3. In paragraph 2 of this article—(a) in sub-paragraph (j)...
- 4. The court shall not grant any relief, or modify any...
- 5. Where a foreign proceeding regarding a debtor who is an...
- 6. Any suspension under this Law of the right to transfer,...
- 7. In paragraph 6— (a) "owner's powers" means the powers described...

### Article 2. Definitions

For the purposes of this Law— (a) "British insolvency law"...

Article 3. International obligations of Great Britain under the EU Insolvency Regulation

To the extent that this Law conflicts with an obligation...

### Article 4. Competent court

- 1. The functions referred to in this Law relating to recognition...
- 2. Subject to paragraph 1 of this article, the court in...
- 3. In considering whether it is the appropriate forum to hear...

Article 5. Authorisation of British insolvency officeholders to act in a foreign State

A British insolvency officeholder is authorised to act in a...

Article 6. Public policy exception

Nothing in this Law prevents the court from refusing to...

Article 7. Additional assistance under other laws

Nothing in this Law limits the power of a court...

Article 8. Interpretation

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Article 9. Right of direct access

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Article 10. Limited jurisdiction

The sole fact that an application pursuant to this Law...

Article 11. Application by a foreign representative to commence a proceeding under British insolvency law

A foreign representative appointed in a foreign main proceeding or...

Article 12. Participation of a foreign representative in a proceeding under British insolvency law

Upon recognition of a foreign proceeding, the foreign representative is...

Article 13. Access of foreign creditors to a proceeding under British insolvency law

- 1. Subject to paragraph 2 of this article, foreign creditors have...
- 2. Paragraph 1 of this article does not affect the ranking...
- 3. A claim may not be challenged solely on the grounds...

Article 14. Notification to foreign creditors of a proceeding under British insolvency law

- 1. Whenever under British insolvency law notification is to be given...
- 2. Such notification shall be made to the foreign creditors individually,...

Changes to legislation: There are currently no known outstanding effects for the The Cross-Border Insolvency Regulations 2006. (See end of Document for details)

- 3. When notification of a right to file a claim is...
- 4. In this article "the court" means the court which has...

CHAPTER III — Recognition of a Foreign Proceeding and Relief

### Article 15. Application for recognition of a foreign proceeding

- 1. A foreign representative may apply to the court for recognition...
- 2. An application for recognition shall be accompanied by—
- 3. An application for recognition shall also be accompanied by a...
- 4. The foreign representative shall provide the court with a translation...

### Article 16. Presumptions concerning recognition

- 1. If the decision or certificate referred to in paragraph 2...
- 2. The court is entitled to presume that documents submitted in...
- 2A Where the EU Insolvency Regulation applies the centre of the...
- 3. Subject to paragraph 2A, in the absence of proof to...

### Article 17. Decision to recognise a foreign proceeding

- 1. Subject to article 6, a foreign proceeding shall be recognised...
- 2. The foreign proceeding shall be recognised—(a) as a foreign...
- 3. An application for recognition of a foreign proceeding shall be...
- 4. The provisions of articles 15 to 16, this article and...

### Article 18. Subsequent information

From the time of filing the application for recognition of...

### Article 19. Relief that may be granted upon application for recognition of a foreign proceeding

- 1. From the time of filing an application for recognition until...
- 2. Unless extended under paragraph 1(f) of article 21, the relief...
- 3. The court may refuse to grant relief under this article...

### Article 20. Effects of recognition of a foreign main proceeding

- 1. Upon recognition of a foreign proceeding that is a foreign...
- 2. The stay and suspension referred to in paragraph 1 of...
- 3. Without prejudice to paragraph 2 of this article, the stay...
- 4. Paragraph 1(a) of this article does not affect the right...
- 5. Paragraph 1 of this article does not affect the right...
- 6. In addition to and without prejudice to any powers of...

### Article 21. Relief that may be granted upon recognition of a foreign proceeding

- 1. Upon recognition of a foreign proceeding, whether main or non-main,...
- 2. Upon recognition of a foreign proceeding, whether main or non-main,...
- 3. In granting relief under this article to a representative of...
- 4. No stay under paragraph 1(a) of this article shall affect...

### Article 22. Protection of creditors and other interested persons

- 1. In granting or denying relief under article 19 or 21,...
- 2. The court may subject relief granted under article 19 or...
- 3. The court may, at the request of the foreign representative...

#### Article 23. Actions to avoid acts detrimental to creditors

- 1. Subject to paragraphs 6 and 9 of this article, upon...
- 2. Where the foreign representative makes such an application ("an article...
- 3. The modifications referred to in paragraph 2 of this article...
- 4. For the purposes of paragraph 3 of this article, the...
- 5. When the foreign proceeding is a foreign non-main proceeding, the...
- 6. At any time when a proceeding under British insolvency law...
- 7. On making an order on an article 23 application, the...
- 8. Nothing in this article affects the right of a British...
- 9. Nothing in paragraph 1 of this article shall apply in...

Article 24. Intervention by a foreign representative in proceedings in Great Britain

Upon recognition of a foreign proceeding, the foreign representative may,...

CHAPTER IV — Cooperation with Foreign Courts and Foreign Representatives

Article 25. Cooperation and direct communication between a court of Great Britain and foreign courts or foreign representatives

- 1. In matters referred to in paragraph 1 of article 1,...
- 2. The court is entitled to communicate directly with, or to...

Article 26. Cooperation and direct communication between the British insolvency officeholder and foreign courts or foreign representatives

- 1. In matters referred to in paragraph 1 of article 1,...
- 2. The British insolvency officeholder is entitled, in the exercise of...

Article 27. Forms of cooperation

Cooperation referred to in articles 25 and 26 may be... CHAPTER V — Concurrent Proceedings

Article 28. Commencement of a proceeding under British insolvency law after recognition of a foreign main proceeding

After recognition of a foreign main proceeding, the effects of...

Article 29. Coordination of a proceeding under British insolvency law and a foreign proceeding Where a foreign proceeding and a proceeding under British insolvency...

Article 30. Coordination of more than one foreign proceeding In matters referred to in paragraph 1 of article 1,...

Article 31. Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of...

Article 32. Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights in rem, a...

### SCHEDULE 2 — PROCEDURAL MATTERS IN ENGLAND AND WALES PART 1 — INTRODUCTORY PROVISIONS

1. Interpretation

Changes to legislation: There are currently no known outstanding effects for the The Cross-Border Insolvency Regulations 2006. (See end of Document for details)

### PART 2 — APPLICATIONS TO COURT FOR RECOGNITION OF FOREIGN PROCEEDINGS

- 2. Affidavit in support of recognition application
- 3. Form and content of application
- 4. Contents of affidavit in support
- 5. The hearing and powers of court
- 6. Notification of subsequent information

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- 8. Service of interim relief application not required
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- 10. Application for relief under article 21 of the Model Law—affidavit in support
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### PART 4 — REPLACEMENT OF FOREIGN REPRESENTATIVE

- 12. Application for confirmation of status of replacement foreign representative
- 13. Contents of application and affidavit in support
- 14. The hearing and powers of court

#### PART 5 — REVIEWS OF COURT ORDERS

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- 16. Review application—affidavit in support
- 17. Hearing of review application and powers of the court

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- 20. Filing of application
- 21. Service of the application
- 22. Manner in which service to be effected
- 23. Proof of service
- 24. In case of urgency
- 25. The hearing
- 26. Notification and advertisement of order
- 27. Adjournment of hearing; directions

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- 37. Adjournment of hearings; directions
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- 49. Persons incapable of managing their affairs—introductory
- 50. Appointment of another person to act
- 51. Affidavit in support of application
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- 79. The Gazette

### SCHEDULE 3 — PROCEDURAL MATTERS IN SCOTLAND

### PART 1 — INTERPRETATION

1. Interpretation

### PART 2 — THE FOREIGN REPRESENTATIVE

- 2. Application for confirmation of status of replacement foreign representative
- 3. Misfeasance by a foreign representative

### PART 3 — COURT PROCEDURE AND PRACTICE

- 4. Preliminary and interpretation
- 5. Reviews of court orders—where court makes order of its own motion
- 6. The hearing
- 7. Notification and advertisement of order
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- 9. Right to inspect court process

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- 10. Copies of court orders
- 11. Transfer of proceedings—actions to avoid acts detrimental to creditors PART 3 GENERAL
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- 14. Certificate of giving notice, etc
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- 1. Interpretation
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- 3. Registrar of companies to whom notices to be delivered
- 4. Delivery to registrar of notices
- 5. Enforcement of foreign representative's duty to give notice to registrar
- 6. Rectification of the register under court order

SCHEDULE 5 — FORMS

**Explanatory Note** 

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