

2005 No. 879

INSOLVENCY

COMPANIES

The Insolvency Act 1986 (Amendment) Regulations 2005

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| <i>Made</i> - - - - | <i>17th March 2005</i> |
| <i>Laid before Parliament</i> | <i>23rd March 2005</i> |
| <i>Coming into force</i> - - | <i>13th April 2005</i> |

The Secretary of State, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in exercise of the powers conferred upon her by that section hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Insolvency Act 1986 (Amendment) Regulations 2005 and shall come into force on 13 April 2005.

(2) Expressions used in these Regulations that are used in the Insolvency Act 1986(c) have the same meaning as they have in that Act.

Amendments to the Insolvency Act 1986

2.—(1) The Insolvency Act 1986 (d) is amended as follows.

(2) In section 1 (company voluntary arrangements: those who may propose an arrangement), for subsection (4) substitute—

“(4) In this Part “company” means—

- (a) a company within the meaning of section 735(1) of the Companies Act 1985,
- (b) a company incorporated in an EEA State other than the United Kingdom; or
- (c) a company not incorporated in an EEA State but having its centre of main interests in a member State other than Denmark.

(5) In subsection (4), in relation to a company, “centre of main interests” has the same meaning as in the EC Regulation and, in the absence of proof to the contrary, is presumed to be the place of its registered office (within the meaning of that Regulation).

(6) If a company incorporated outside the United Kingdom has a principal place of business in Northern Ireland, no proposal under this Part shall be made in relation to it

(a) S.I. 2001/3495.

(b) 1972 c.68.

(c) 1986 c. 45.

(d) Section 1 of the Insolvency Act 1986 was amended by SI 2002/1240 and Schedule B1 was inserted into the Insolvency Act 1986 by section 248 of, and Schedule 16 to, the Enterprise Act 2002 (c.40.).

unless it also has a principal place of business in England and Wales or Scotland (or both in England and Wales or Scotland).”.

(3) In section 436 (expressions used generally), at the appropriate place, insert—

““EEA State” means a state that is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;”.

(4) In paragraph 111 of Schedule B1 (administration)—

(a) in sub-paragraph (1) omit the definition of “company”

(b) after that sub-paragraph insert—

“(1A) In this Schedule, “company” means—

(a) a company within the meaning of section 735(1) of the Companies Act 1985,

(b) a company incorporated in an EEA State other than the United Kingdom, or

(c) a company not incorporated in an EEA State but having its centre of main interests in a member State other than Denmark.

(1B) In sub-paragraph (1A), in relation to a company, “centre of main interests” has the same meaning as in the EC Regulation and, in the absence of proof to the contrary, is presumed to be the place of its registered office (within the meaning of that Regulation).”;

(c) after that paragraph insert—

“Non-UK companies

111A. A company incorporated outside the United Kingdom that has a principal place of business in Northern Ireland may not enter administration under this Schedule unless it also has a principal place of business in England and Wales or Scotland (or both in England and Wales and in Scotland).”.

3. The provisions of regulation 2 do not affect—

(a) a voluntary arrangement under Part 1 of the Insolvency Act 1986, or

(b) the appointment of an administrator under Part 2 of that Act

that took effect before the date on which these Regulations came into force.

Gerry Sutcliffe

Parliamentary Under Secretary of State for
Employment Relations, Postal Services and Consumers
Department of Trade and Industry

17th March 2005

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Insolvency Act 1986 to clarify that it is only companies as defined by section 735(1) of the Companies Act 1985 and certain companies formed or incorporated outside the United Kingdom that can enter administration or a company voluntary arrangement. These amendments are made in connection with the application of the Council Regulation of 29th May 2000 on insolvency proceedings (1346/2000/EC) within England and Wales and Scotland. Amendments to the Insolvency Act 1986 for the purposes of giving effect to the Council Regulation in relation to England and Wales and Scotland were originally made by the Insolvency Act 1986 (Amendment) (No 2) Regulations 2002 (S.I. 2002/1240). These Regulations are a partial reimplementation of the subject matter covered by the 2002 Regulations.

No regulatory impact assessment has been prepared in relation to these Regulations as they will not impose any significant costs on business.

STATUTORY INSTRUMENT

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