

SCHEDULE 2

PROCEDURAL MATTERS IN ENGLAND AND WALES

PART 4

REPLACEMENT OF FOREIGN REPRESENTATIVE

Application for confirmation of status of replacement foreign representative

12.—(1) This paragraph applies where following the making of a recognition order the foreign representative dies or for any other reason ceases to be the foreign representative in the foreign proceeding in relation to the debtor.

(2) In this paragraph “the former foreign representative” shall mean the foreign representative referred to in sub-paragraph (1).

(3) If a person has succeeded the former foreign representative or is otherwise holding office as foreign representative in the foreign proceeding in relation to the debtor, that person may apply to the court for an order confirming his status as replacement foreign representative for the purpose of proceedings under these Regulations.

Contents of application and affidavit in support

13.—(1) An application under paragraph 12(3) shall in addition to the matters required to be stated by paragraph 19(2) state the following matters—

- (a) the name of the replacement foreign representative and his address for service within England and Wales;
- (b) details of the circumstances in which the former foreign representative ceased to be foreign representative in the foreign proceeding in relation to the debtor (including the date on which he ceased to be the foreign representative);
- (c) details of his own appointment as replacement foreign representative in the foreign proceeding (including the date of that appointment).

(2) The application shall be accompanied by an affidavit in support sworn by the applicant which shall contain or have attached to it—

- (a) a certificate from the foreign court affirming—
 - (i) the cessation of the appointment of the former foreign representative as foreign representative; and
 - (ii) the appointment of the applicant as the foreign representative in the foreign proceeding; or
- (b) in the absence of such a certificate, any other evidence acceptable to the court of the matters referred to in paragraph (a); and
- (c) a translation in English of any document exhibited to the affidavit which is in a language other than English.

(3) All translations referred to in paragraph (c) must be certified by the translator as a correct translation.

The hearing and powers of court

14.—(1) On hearing an application under paragraph 12(3) the court may—

Status: This is the original version (as it was originally made).

- (a) make an order confirming the status of the replacement foreign representative as foreign representative for the purpose of proceedings under these Regulations;
 - (b) dismiss the application;
 - (c) adjourn the hearing conditionally or unconditionally;
 - (d) make an interim order;
 - (e) make any other order which the court thinks appropriate, including in particular an order making such provision as the court thinks fit with respect to matters arising in connection with the replacement of the foreign representative.
- (2) If the court dismisses the application, it may also if it thinks fit make an order terminating recognition of the foreign proceeding and—
- (a) such an order may include such provision as the court thinks fit with respect to matters arising in connection with the termination; and
 - (b) paragraph 15 shall not apply to such an order.