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STATUTORY INSTRUMENTS

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**2019 No. 146**

**The Insolvency (Amendment) (EU Exit) Regulations 2019**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Insolvency (Amendment) (EU Exit) Regulations 2019.

(2) The following provisions of these Regulations come into force on the day after these Regulations are made—

- (a) regulation 2 as it relates—
  - (i) to paragraph 177 of the Schedule, and
  - (ii) Part 12 of the Schedule,
- (b) paragraph 177 of the Schedule, and
- (c) Part 12 of the Schedule.

(3) The remainder of these Regulations come into force on exit day.

**Amendments**

2. The Schedule has effect.

**Extent and application**

3. Any provision of these Regulations amending or applying an enactment has the same extent as the enactment amended or applied, except that—

- (a) the amendments made to the Insolvency Act 1986 by paragraphs 18, 22, 24 and 26 of the Schedule extend to England and Wales only; and
- (b) the amendments made to that Act by Part 7 of the Schedule apply to Scotland only.

**Temporal application and savings**

4.—(1) Subject to regulation 5 nothing in these Regulations affects—

- (a) the application of [Council Regulation \(EC\) 1346/2000](#)(1) to insolvency proceedings which fall within the scope of that Regulation and were opened before 26 June 2017; and
- (b) the saving for the existing law in article 3 of the Insolvency Amendment (EU 2015/848) Regulations 2017(2).

(2) Where main proceedings under the EU Insolvency Regulation were opened before exit day the amendments made by these Regulations do not apply in respect of—

- (a) those proceedings;
- (b) secondary proceedings in respect of the same debtor;

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(1) O.J. L. 160, 30.06.2000, p.1 as last amended by [Council Implementing Regulation \(EU\) 2016/1792](#) of 29 September 2016, O.J. L. 274, 11.10.2016, p.35.

(2) [S.I. 2017/702](#).

(c) any proceedings falling within Article 6 of the EU Insolvency Regulation.

(3) In applying paragraphs (1) and (2) references to the EU and to its members are to be read as if the United Kingdom were a member.

(4) The time at which proceedings are opened is to be determined in accordance with Article 2(8) of the EU Insolvency Regulation.

(5) In this regulation and regulation 5 the EU Insolvency Regulation means [Regulation \(EU\) 2015/848](#) of the European Parliament and of the Council on insolvency proceedings<sup>(3)</sup>.

5.—(1) Paragraph (2) applies where in any particular case [Council Regulation \(EC\) 1346/2000](#) or the EU Insolvency Regulation applies in the United Kingdom by virtue of regulation 4 and the court considers that the effect is or would be different to what would be the effect had a member State treated the United Kingdom as a member State under the relevant Regulation, and either—

- (a) the court considers that one or more of the following would be materially prejudiced—
  - (i) the interests of a creditor (whether alone or in common with some or all other creditors),
  - (ii) the interests of the debtor,
  - (iii) where the debtor is a body corporate, the interests of a member (whether alone or in common with some or all other members) of the debtor; or
- (b) the court considers it would be manifestly contrary to public policy to apply the relevant Regulation.

(2) The Court may—

- (a) apply any other relevant law of the part of the United Kingdom in which the matter is being determined (including the Cross-Border Insolvency Regulations 2006<sup>(4)</sup> or the Cross-Border Insolvency Regulations (Northern Ireland) 2007<sup>(5)</sup>);
- (b) make any other order that it thinks fit.

*Kelly Tolhurst*  
Minister for Small Business, Consumer and  
Corporate Responsibility  
Department for Business, Energy & Industrial  
Strategy

30th January 2019

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(3) O.J. L. 141, 5.06.2015, p.19 as last amended by [Regulation \(EU\) 2017/353](#) of the European Parliament and of the Council of 15 February 2017 O.J. L57, 3.3.2017 p.19.

(4) [S.I. 2006/1030](#); relevant amendments were made by [S.I. 2017/702](#).

(5) [S.I. 2007/115](#); relevant amendments were made by [S.I. 2017/702](#).