

2002 No. 1037

**INSOLVENCY
COMPANIES
INDIVIDUALS**

The Insolvency Act 1986 (Amendment) Regulations 2002

<i>Made - - - - -</i>	<i>9th April 2002</i>
<i>Laid before Parliament</i>	<i>10th April 2002</i>
<i>Coming into force - -</i>	<i>3rd May 2002</i>

The Secretary of State, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to insolvency, 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 2002 and shall come into force on 3rd May 2002.

(2) In these Regulations “the Act” means the Insolvency Act 1986 (c).

Amendments to the Insolvency Act 1986

2. The Act is amended as provided for in these Regulations.

Amendments to rule-making powers

3.—(1) In section 411(1) (Company insolvency rules) after “of this Act” insert “or the EC Regulation”.

(2) After section 411(2) insert—

“(2A) For the purposes of subsection (2), a reference in Schedule 8 to this Act to doing anything under or for the purposes of a provision of this Act includes a reference to doing anything under or for the purposes of the EC Regulation (in so far as the provision of this Act relates to a matter to which the EC Regulation applies).

(2B) Rules under this section for the purpose of giving effect to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

(3) In section 412(1) (Individual insolvency rules (England and Wales)) after “of this Act” insert “or the EC Regulation”.

(4) After section 412(2) insert—

(a) S.I. 2001/3495.

(b) 1972 c. 68. The Secretary of State was designated by the European Communities (Designation) (No. 3) Order 2001. S.I. 2001/3495.

(c) 1986 c. 45; section 421(1) was amended by the Insolvency Act 2000(c.39), section 12(2).

“(2A) For the purposes of subsection (2), a reference in Schedule 9 to this Act to doing anything under or for the purposes of a provision of this Act includes a reference to doing anything under or for the purposes of the EC Regulation (in so far as the provision of this Act relates to a matter to which the EC Regulation applies).

(2B) Rules under this section for the purpose of giving effect to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

(5) After section 420(1) (Insolvent partnerships) insert—

“(1A) An order under this section may make provision in relation to the EC Regulation.

(1B) But provision made by virtue of this section in relation to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

(6) After section 421(1) (Insolvent estates of deceased persons) insert—

“(1A) An order under this section may make provision in relation to the EC Regulation.

(1B) But provision made by virtue of this section in relation to the EC Regulation may not create an offence of a kind referred to in paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.”.

Amendments to definitions

4. In section 436 (Expressions used generally) before “modifications” insert—

““the EC Regulation” means Council Regulation (EC) No. 1346/2000;”.

9th April 2002

Patricia Hewitt,
Secretary of State for Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insolvency Act 1986 (c.45) to extend existing rule-making powers under the Act to allow for making rules which are required as a result of the adoption by the Council of the European Union of Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings, Official Journal No. L160, 30.06.00. p.1 (the “Regulation”) which comes into force on 31st May 2002. As a result of making these amendments, rules made under the amended sections 411 and 412 of the Insolvency Act 1986 in relation to the Regulation, will, like rules presently made under the Act, need to be reviewed by the Insolvency Rules Committee. The Insolvency Rules Committee is consulted by the Lord Chancellor prior to making insolvency rules and consists of judges and practising insolvency professionals (specified in section 413).

The Regulations also amend the powers in the Insolvency Act 1986 to apply insolvency legislation to insolvent partnerships (section 420) and to the insolvent estates of deceased persons (section 421) to allow provision to be made in relation to the Regulation.

The text of the Regulation is available on the Insolvency Service website, the address of which is www.insolvency.gov.uk.

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