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STATUTORY INSTRUMENTS

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**2002 No. 1307**

**The Insolvency (Amendment) Rules 2002**

**Amendments to the Insolvency Rules 1986 in relation to Parts 11, 12 and 13**

**10.**—(1) After Rule 11.1(2) (preliminary) insert—

“(3) For the purposes of this Part, a member State liquidator appointed in relation to an insolvent is deemed to be a creditor.”.

(2) In Rule 11.2(1) (notice of intended dividend) after “his intention to do so” substitute—

“(a) to all creditors whose addresses are known to him and who have not proved their debts, and

(b) where a member State liquidator has been appointed in relation to the insolvent, to that person.”.

(3) After Rule 11.3(2) (final admission/rejection of proofs) insert—

“(3) In the declaration of a dividend no payment shall be made more than once by virtue of the same debt.

(4) Subject to Rule 11.11, where—

(a) a creditor has proved, and

(b) a member State liquidator has proved in relation to the same debt, payment shall only be made to the creditor.”.

(4) In Rule 11.6(1) (notice of declaration) after “notice of the dividend to” substitute—

“(a) all creditors who have proved their debts, and

(b) where a member State liquidator has been appointed in relation to the insolvent, to that person.”.

(5) After Rule 12.12(4) (service outside the jurisdiction) insert—

“(5) Leave of the court is not required to serve anything referred to in this Rule on a member State liquidator.”.

(6) After Rule 12.17(2) (right to have list of creditors) insert—

“(2A) For the purpose of this Rule a member State liquidator appointed in main proceedings in relation to a person is deemed to be a creditor.”.

(7) After Rule 13.13(7) (expressions used generally) insert—

“(8) “Centre of main interests” has the same meaning as in the EC Regulation.

(9) “Establishment” has the meaning given by Article 2(h) of the EC Regulation.

(10) “Main proceedings” means proceedings opened in accordance with Article 3(1) of the EC Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the EC Regulation and

(a) in relation to England and Wales and Scotland set out in Annex A to the EC Regulation under the heading “United Kingdom”, and

(b) in relation to another member State, set out in Annex A to the EC Regulation under the heading relating to that member State.

(11) “Member State liquidator” means a person falling within the definition of liquidator in Article 2(b) of the EC Regulation appointed in proceedings to which it applies in a member State other than the United Kingdom.

(12) “Secondary proceedings” means proceedings opened in accordance with Articles 3(2) and 3(3) of the EC Regulation and falling within the definition of winding-up proceedings in Article 2(c) of the EC Regulation, and

(a) in relation to England and Wales and Scotland, set out in Annex B to the EC Regulation under the heading “United Kingdom”, and

(b) in relation to another member State, set out in Annex B to the EC Regulation under the heading relating to that member State.

(13) “Temporary administrator” means a temporary administrator referred to by Article 38 of the EC Regulation.

(14) “Territorial proceedings” means proceedings opened in accordance with Articles 3(2) and 3(4) of the EC Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the EC Regulation, and

(a) in relation to England and Wales and Scotland, set out in Annex A to the EC Regulation under the heading “United Kingdom”, and

(b) in relation to another member State, set out in Annex A to the EC Regulation under the heading relating to that member State.”.