

IMPACT OF COUNCIL REGULATION EC 1346/2000

PRACTICE DIRECTION

1. The EC Regulation on insolvency proceedings has direct effect from 31 May 2002 throughout the United Kingdom including Northern Ireland. Insolvency practitioners accordingly must familiarise themselves with the EC Regulation which will have an impact in nearly all proceedings in this jurisdiction.
2. Proposed changes to the Insolvency (Northern Ireland) Order 1989 and the Insolvency Rules are pending but until these changes take effect the court must give effect to the EC Regulation.
3. The jurisdiction of the court is dependent on art 3 of the EC Regulation . In all insolvency proceedings the court will require evidence regarding
 - a. the whereabouts of the debtor's main centre of interests, that is to say the place where the debtor conducts the administration of his interests on a regular basis;
 - b. if that centre is not within the United Kingdom, the location of the debtor's establishment within Northern Ireland, that is to say the place where the debtor carries out a non-transitory economic activity with human means and goods as defined in the EC Regulation;
 - c. whether the proceedings will be main, secondary or territorial proceedings as defined by art 3 of the EC Regulation;
 - d. whether the proceedings fall outside the EC Regulation and if so on what basis.
4. In any insolvency proceedings falling to be determined after 31st May 2002 the moving party shall file an affidavit containing the information referred to in paragraph 3 or in cases of urgency shall provide the information to the court and give an undertaking to file an affidavit containing such information within such time as the court may require. Court orders will incorporate the relevant information. The court may direct that the order should not issue

until the affidavit is filed or may direct the order to issue having received the undertaking. Failure to fulfil the undertaking would be a contempt of court.

5. Pending the introduction of the new rules an application under art 19 of the EC Regulation by a liquidator in a creditors' voluntary winding up may be made ex parte to the Master supported by an application in writing verified by affidavit of the liquidator stating the name of the applicant, the name of the company and its registered number, the date of the resolution for the voluntary winding up, that the application is accompanied by the documentation referred to below and that the EC Regulation will apply to the company and whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings. The liquidator shall file in court two copies of the application together with a copy of the resolution, evidence of his appointment as liquidator and a copy of the statement of affairs.

BY ORDER OF THE CHANCERY JUDGE

THE HON MR JUSTICE GIRVAN



MASTER REDPATH



31st May 2002