SCOTTISH STATUTORY INSTRUMENTS

2003 No. 385

COURT OF SESSION

Act of Sederunt (Rules of the Court of Session Amendment No.5) (Insolvency Proceedings) 2003

Made - - - -	*8th August 2003*
Coming into force - -	*15th September 2003*

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 5 of the Court of Session Act 1988(**1**) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 5) (Insolvency Proceedings) 2003 and shall come into force on 15th September 2003.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of the Rules of the Court of Session

2.—(1) Chapter 74 of the Rules of the Court of Session 1994(**2**) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 74.1 (application and interpretation of this Chapter), in paragraph (2) after the definition of "the Insolvency Rules" there shall be inserted the following:–

> "the EC Regulation" means Council Regulation (EC) 1346/2000 of 29th May 2000 on insolvency proceedings(**3**);".

(3) In rule 74.4 (lodging of nominee's report – company not in liquidation), in paragraph (1) for the words "an administration order is not in force in respect of it pronounced by the court" there shall be substituted the words "is not in administration".

(4) In rule 74.5 (lodging of nominee's report – company in liquidation), in paragraph (1) for the words "there is an administration order in force in respect of it pronounced by the court" there shall be substituted the words "is in administration".

(**1**) 1988 c. 36; section 5 was amended by section 2(3) of the Civil Evidence (Scotland) Act 1988 (c. 32) and by paragraph 45 of Schedule 4 to the Children (Scotland) Act 1995 (c. 36).
(**2**) S.I.1994/1443, to which there are amendments not relevant to this Act of Sederunt.
(**3**) O.J. L 160, 30/06/2000 P. 0001-0018.

(5) In rule 74.9 (form of other applications)–

(a) in paragraph (1)(a) for the words "an administration order is not in force in respect of it pronounced by the court" there shall be substituted the words "is not in administration"; and

(b) in paragraph (1)(b) for the words "there is an administration order in force in respect of it pronounced by the court" there shall be substituted the words "is in administration".

(6) In the heading beneath "PART III", for "ORDERS" there shall be substituted "PROCEDURE".

(7) In rule 74.10 (form of petition for administration order)–

(a) in the heading, for the words "for administration order" there shall be substituted the words "in administration procedure"; and

(b) in paragraph (2)–

(i) for sub-paragraph (c) there shall be substituted–

"(c) how the making of that order will achieve–

(i) any of the purposes specified in section 8(3) of the Act of 1986(**4**); or

(ii) an objective specified in paragraph 3 of Schedule B1 to the Act of 1986(**5**);"

(ii) in sub-paragraph (g) for the words "administration order" there shall be substituted the words "order in respect of an administration";

(iii) at the end of sub-paragraph (h) there shall be omitted ";"; and

(iv) after sub-paragraph (i) there shall be inserted the following:–

"; and

(j) whether–

(i) the EC Regulation applies; and

(ii) if so, whether the proceedings are main proceedings or territorial proceedings.".

(8) In rule 74.11 (notice of petition), in paragraph (a) for "2.2" there shall be substituted "2.3".

(9) For rules 74.13 (abstracts of administrator's receipts and payments), 74.14 (extension of time for accounts of receipts and payments) and 74.15 (forms of certain applications and appeals) there shall be substituted the following–

"Report of administrator's proposals: Schedule B1 to the Act of 1986

74.13.—(1) Paragraph (2) shall apply where a report under paragraphs 53(2) or 54(6) of Schedule B1 to the Act of 1986 discloses a failure to approve, or to approve a revision of, an administrator's proposals.

(2) The Deputy Principal Clerk shall fix a hearing for determination by the insolvency judge of any order that may be made under paragraph 55(2) of Schedule B1 to the Act of 1986.

(**4**) The Insolvency Act 1986 (c. 45) is defined in rule 74.1 of the Rules of the Court of Session as ?OQ?the Act of 1986!, and section 8 was amended by the Financial Services and Markets Act 2000 (c. 8), section 359, and by S.I. 2001/3649 and 2002/1240 and 1555, and applied with modifications by the Building Societies Act 1986 (c. 53), Schedule 15, the Building Societies Act 1997 (c. 32), Schedule 6, and S.I. 2001/1090.

(**5**) Schedule B1 was inserted into the Act of 1986 by the Enterprise Act 2002 (c. 40), section 248.