

2006 No. 200

SHERIFF COURT

**Act of Sederunt (Sheriff Court Company Insolvency Rules
1986) Amendment (UNCITRAL Model Law on Cross-Border
Insolvency) 2006**

Made - - - - *3rd April 2006*

Coming into force - - *6th April 2006*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a), and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Company Insolvency Rules 1986) Amendment (UNCITRAL Model Law on Cross-Border Insolvency) 2006 and shall come into force on 6th April 2006.

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

Amendment of the Sheriff Court Company Insolvency Rules

2.—(1) The Sheriff Court Company Insolvency Rules(b) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 3 (interpretation) after the definition of “the Insolvency Rules” there shall be inserted the following:—

““the Model Law” means the Model Law on Cross-Border Insolvency as set out in Schedule 1 to the Cross-Border Insolvency Regulations 2006(c).”

(3) In rule 12 (applications during an administration), for “or the Insolvency Rules” there shall be substituted “, the Insolvency Rules or an application to participate under article 12 of the Model Law in an administration”.

(4) In rule 30 (other applications) after “mentioned in this Part” there shall be inserted “or an application to participate under article 12 of the Model Law in a winding up by the court”.

(a) 1971 c.58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 5, paragraph 13, the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43 and the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2), and was extended by the Child Support Act 1991 (c.48), sections 39(2) and 49.

(b) S.I. 1986/2297, amended by S.S.I. 2003/388.

(c) S.I. 2006/1030.

(5) After rule 31A (applications under section 176A of the Act of 1986) there shall be inserted the following:—

“UNCITRAL Model Law on Cross-Border Insolvency

31B. On receipt of a certified copy interlocutor of a Lord Ordinary ordering proceedings under these rules to be transferred to the Court of Session under paragraph 11 of Schedule 3 to the Cross-Border Insolvency Regulations 2006, the sheriff clerk shall within four days transmit the process to the deputy principal clerk of session.”.

Edinburgh
3rd April 2006

BRIAN GILL
Lord Justice Clerk,
I.P.D.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt makes minor amendments to the Sheriff Court Company Insolvency Rules 1986 to make provision in respect of participation in company insolvency cases by foreign administrators under article 12 of the Model Law on Cross-Border Insolvency set out in Schedule 1 to the Cross-Border Insolvency Regulations 2006. It also makes provision for the transfer of insolvency proceedings to the Court of Session where foreign insolvency proceedings have been recognised by that court.

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