



The Insolvency (Cross Border Insolvencies) Regulations 2014/198

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Background

Sub-section 495 (2) (ii), (iii), (iv), Insolvency Act 2011

UNCITRAL Model Law

Compare: *Levy International Resources Ltd.*, 8 March 1973

Re BCCI SA [1992] BCC 83

Re Paramount Airways Limited [1993] Ch 223, 229

Barclays Bank v. Holman [1992] BCC 757, 766



Origins

UNCITRAL's objectives:

- Recognition of insolvency proceedings and officers
- Access to local courts for foreign creditors
- An orderly regime between insolvency proceedings concerning the same persons or entities in different states
- Co-operation between courts, officers and authorities



Definitions

- “*foreign proceeding*”: collective; judicial or administrative; under the control or supervision of the court; main or ancillary
- “*foreign representative*”: authorized to administer the reorganization or liquidation of the debtor’s property or affairs; representative of the foreign proceeding
- “*insolvency law*”
- “*insolvency officer*”
- Interpretation: regulation 5 (5)



Part 3 of the 2014 Regulations

Regulation 5: gives effect to the Model Law; explains its objectives and where it applies

Regulation 6: public policy

Access to courts in Gibraltar

- Regulation 11: foreign representative's right of access
- Regulation 14: foreign creditors' rights
- Regulation 15: information to foreign creditors



Recognition applications

Regulation 16: requirements

- Documents
- Statement identifying any other foreign proceedings

Regulation 17: presumptions

Regulation 18: the court's decision

- Straightforward process
- COMI: main; establishment: ancillary



Recognition applications

Regulation 20: interim relief

Regulation 21 : the effects of recognition for main proceedings

- Automatic stay of actions, proceedings, execution
- Suspension of rights
- Can be lifted on application and does not prevent proceedings to preserve claims, or participation in Gibraltar proceedings



Relief following recognition

Regulation 22: “*any appropriate relief*”

- Specific examples set out in Regulation 22 (1)

Regulation 23: touchstones for granting relief

- Interests of creditors and others; conditions; reconsideration

Regulation 24: voidable transactions

- Role of the foreign representative; ancillary proceedings

Regulation 25: intervention in proceedings in Gibraltar



2014 Regulations

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