

**Corporate Insolvency and Restructuring Act, 2020 (Act 1015)**

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**CORPORATE INSOLVENCY AND RESTRUCTURING ACT (2020)**

**(ACT 1015)**

*Cross-Border Insolvency*

**Rules and procedure**

152. (1) Subject to the Rules of Court the matters set out in the Schedule shall apply to cases of cross-border insolvency proceedings.

(2) For purposes of cross-border insolvency proceedings, the Rules of Court Committee may make rules in relation to

(a) the practice and procedure of the Court for cross-border insolvency proceedings;

(b) the manner in which an application in respect of a cross-border insolvency proceeding shall be made to Court; and

(c) generally giving effect to the provisions of the Schedule

**SCHEDULE**

*(Section 152)*

**CROSS-BORDER INSOLVENCY PROCEEDINGS**

*General Provisions*

**Jurisdiction**

2. The functions referred to in this Schedule relating to recognition of foreign proceedings and co-operation with foreign courts shall be performed by a court of competent jurisdiction.

**Public policy exception**

4. (1) Nothing in this Schedule prevents a Court from refusing to take an action if that action is contrary to the public policy of Ghana.

(2) Before the Court refuses to take an action under subparagraph(1), the Court shall consider whether to refer the case to the Attorney-General for consideration.

### *Recognition of a Foreign Proceeding and Relief*

#### **Decision to recognise a foreign proceeding**

14. (1) Subject to paragraph 4, a foreign proceeding shall be recognized if

- (a) that foreign proceeding is taking place in the State where the debtor has the centre of the main interests of the debtor;
- (b) the foreign representative applying for recognition is a person or body required to administer the re-organisation or the liquidation of the assets or affairs of a debtor or to act as a representative of the foreign proceeding;
- (c) the application meets the requirements of subparagraph(2) of paragraph 12; and
- (d) the application has been submitted to the Court.

(2) Subject to the Rules of Court, a foreign proceeding shall be recognised

- (a) as a foreign main proceeding if the proceeding is taking place in the State where the debtor has the centre of the main interests of the debtor; or
- (b) if the proceeding is taking place in a State where the debtor has an establishment in the foreign State.

(3) An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time.

(4) As soon as practicable, after the Court recognises the foreign proceeding under subparagraph (1), the foreign representative shall notify the debtor, in the prescribed form, that the application has been recognised.

(5) Paragraphs 12, 13, 14 and 16 do not prevent modification or termination of recognition if it is shown that the grounds for granting the recognition were fully or partially lacking or have ceased to exist.

### *Concurrent Proceedings*

#### **Commencement of an insolvency proceeding in Ghana after recognition of a foreign main proceeding**

25. (1) After recognition by the Court of a foreign main proceeding, a Ghana insolvency proceeding may be commenced only if the debtor has assets in Ghana.

(2) The Ghana insolvency proceeding shall be restricted to the assets of the debtor that are located in Ghana and, to the extent necessary to implement co-operation and co-ordination for purposes of paragraphs 22, 23 and 24, to other assets of the debtor that, under the laws of Ghana, should be administered in that proceeding.