



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 10

INSOLVENCY

Regulation of insolvency practitioners: amendments to existing regime

137 Recognised professional bodies: recognition

- (1) In Part 13 of the Insolvency Act 1986 (insolvency practitioners), for section 391 (recognised professional bodies) (as substituted by section 17 of the Deregulation Act 2015) substitute—

“391 Recognised professional bodies

- (1) The Secretary of State may by order, if satisfied that a body meets the requirements of subsection (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.
- (2) The Secretary of State may by order, if satisfied that a body meets the requirements of subsection (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (as to which, see section 390A(1)).
- (3) Section 391A makes provision about the making by a body of an application to the Secretary of State for an order under this section.
- (4) The requirements are that—
 - (a) the body regulates (or is going to regulate) the practice of a profession,

Status: This is the original version (as it was originally enacted).

- (b) the body has rules which it is going to maintain and enforce for securing that its insolvency specialist members—
 - (i) are fit and proper persons to act as insolvency practitioners, and
 - (ii) meet acceptable requirements as to education and practical training and experience, and
 - (c) the body's rules and practices for or in connection with authorising persons to act as insolvency practitioners, and its rules and practices for or in connection with regulating persons acting as such, are designed to ensure that the regulatory objectives are met (as to which, see section 391C).
- (5) An order of the Secretary of State under this section has effect from such date as is specified in the order.
- (6) An order under this section may be revoked by an order under section 391L or 391N (and see section 415A(1)(b)).
- (7) In this Part—
- (a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question;
 - (b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.
- (8) A reference in this Part to a recognised professional body is to a body recognised under this section (and see sections 391L(6) and 391N(5)).

391A Application for recognition as recognised professional body

- (1) An application for an order under section 391(1) or (2) must—
- (a) be made to the Secretary of State in such form and manner as the Secretary of State may require,
 - (b) be accompanied by such information as the Secretary of State may require, and
 - (c) be supplemented by such additional information as the Secretary of State may require at any time between receiving the application and determining it.
- (2) The requirements which may be imposed under subsection (1) may differ as between different applications.
- (3) The Secretary of State may require information provided under this section to be in such form, and verified in such manner, as the Secretary of State may specify.
- (4) An application for an order under section 391(1) or (2) must be accompanied by—
- (a) a copy of the applicant's rules,
 - (b) a copy of the applicant's policies and practices, and
 - (c) a copy of any guidance issued by the applicant in writing.

- (5) The reference in subsection (4)(c) to guidance issued by the applicant is a reference to guidance or recommendations which are—
- (a) issued or made by it which will apply to its insolvency specialist members or to persons seeking to become such members,
 - (b) relevant for the purposes of this Part, and
 - (c) intended to have continuing effect,
- including guidance or recommendations relating to the admission or expulsion of members.
- (6) The Secretary of State may refuse an application for an order under section 391(1) or (2) if the Secretary of State considers that recognition of the body concerned is unnecessary having regard to the existence of one or more other bodies which have been or are likely to be recognised under section 391.
- (7) Subsection (8) applies where the Secretary of State refuses an application for an order under section 391(1) or (2); and it applies regardless of whether the application is refused on the ground mentioned in subsection (6), because the Secretary of State is not satisfied as mentioned in section 391(1) or (2) or because a fee has not been paid (see section 415A(1)(b)).
- (8) The Secretary of State must give the applicant a written notice of the Secretary of State’s decision; and the notice must set out the reasons for refusing the application.”
- (2) An order under section 391(1) or (2) of the Insolvency Act 1986 made before the coming into force of this section is, following the coming into force of this section, to be treated as if it were made under section 391(1) or (as the case may be) (2) as substituted by subsection (1) of this section.