



Insolvency Act 1986

1986 CHAPTER 45

PART XIII

INSOLVENCY PRACTITIONERS AND THEIR QUALIFICATION

Restrictions on unqualified persons acting as liquidator, trustee in bankruptcy, etc.

390 Persons not qualified to act as insolvency practitioners.

- (1) A person who is not an individual is not qualified to act as an insolvency practitioner.
- [^{F1}(2) A person is not qualified to act as an insolvency practitioner at any time unless at that time the person is appropriately authorised under section 390A.]
- (3) A person is not qualified to act as an insolvency practitioner in relation to another person at any time unless—
 - (a) there is in force at that time security or, in Scotland, caution for the proper performance of his functions, and
 - (b) that security or caution meets the prescribed requirements with respect to his so acting in relation to that other person.
- (4) A person is not qualified to act as an insolvency practitioner at any time if at that time—
 - (a) he has been [^{F2}made] bankrupt [^{F3}under this Act or the Insolvency (Northern Ireland) Order 1989] or sequestration of his estate has been awarded and (in either case) he has not been discharged,
 - [^{F4}(aa) a moratorium period under a debt relief order [^{F5}under this Act or the Insolvency (Northern Ireland) Order 1989] applies in relation of him,]
 - [^{F6}(b) he is subject to a disqualification order made or a disqualification undertaking accepted under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002,]
 - (c) he is a patient within the meaning of ^{F7}. . . [^{F8}section 329(1) of the Mental Health (Care and Treatment)(Scotland) Act 2003][^{F9}or has had a guardian appointed to him under the Adults with Incapacity (Scotland) Act 2000 (asp 4).][^{F10}, or

Status: Point in time view as at 30/11/2016. This version of this provision has been superseded.

Changes to legislation: Insolvency Act 1986, Section 390 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) he lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as an insolvency practitioner.]

[^{F11}(5) A person is not qualified to act as an insolvency practitioner while there is in force in respect of that person—

- (a) a bankruptcy restrictions order under this Act, the Bankruptcy (Scotland) Act 1985 [^{F12}or the Bankruptcy (Scotland) Act 2016] or the Insolvency (Northern Ireland) Order 1989, or
- (b) a debt relief restrictions order under this Act or that Order.]

Textual Amendments

- F1** S. 390(2) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 17(2)**, 115(7); S.I. 2015/1732, **art. 2(c)**
- F2** Word in s. 390(4)(a) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 19 para. 58**; S.I. 2016/191, **art. 2** (with **art. 3**)
- F3** Words in s. 390(4)(a) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 115(a)(i)**, 164(1); S.I. 2015/1689, **reg. 2(i)** (with **Sch. para. 13**)
- F4** S. 390(4)(aa) inserted (24.2.2009 for certain purposes otherwise 6.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 108(3)**, 148(5), **Sch. 20 para. 6(2)**; S.I. 2009/382, **art. 2**
- F5** Words in s. 390(4)(aa) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 115(a)(ii)**, 164(1); S.I. 2015/1689, **reg. 2(i)** (with **Sch. para. 13**)
- F6** S. 390(4)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009](#), (S.I. 2009/1941), **arts. 2(1)**, 8, **Sch. 1 para. 78(4)** (with **art. 10**, **Sch. 1 para. 84**)
- F7** Words in s. 390(4)(c) repealed (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), **ss. 67(1)(2)**, 68, **Sch. 6 para. 31(3)(b)**, **Sch. 7** (with **ss. 27-29**, 62); S.I. 2007/1897, **art. 2(1)(d)**
- F8** Words in s. 390(4)(c) substituted (27.9.2005 for S. and 5.10.2005 otherwise) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), **art. 2**, **Sch. 1 para. 18(3)** and [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), **arts. 1**, 15, **Sch. 1 para. 3(3)**
- F9** Words in s. 390(4)(c) inserted (S.) (1.4.2002) by [2000 asp 4](#), s. 88(2), **Sch. 5 para. 18**; S.S.I. 2001/81, **art. 3**, **Sch. 2**
- F10** S. 390(4)(d) and preceding word inserted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), **ss. 67(1)**, 68, **Sch. 6 para. 31(3)(c)** (with **ss. 27-29**, 62); S.I. 2007/1897, **art. 2(1)(d)**
- F11** S. 390(5) substituted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 115(b)**, 164(1); S.I. 2015/1689, **reg. 2(i)** (with **Sch. para. 13**)
- F12** Words in s. 390(5)(a) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), **art. 1**, **Sch. 1 para. 4(8)**

Modifications etc. (not altering text)

- C1** s.390 applied with modifications by [S.I. 1986/1999](#), **art. 3**, **Sch. 1 Pt. II**
- C2** S. 390 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2**, 3, **Sch. para. 2**
- C3** S. 390 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2**, 3, **Sch. para. 3**
- C4** S. 390(2)(3) modified by [S.I. 1990/1392](#), **art. 7**

Status:

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