
STATUTORY INSTRUMENTS

2005 No. 524

INSOLVENCY

INSOLVENCY PRACTITIONERS

The Insolvency Practitioners Regulations 2005

Made - - - - *8th March 2005*
Laid before Parliament *8th March 2005*
Coming into force - - *1st April 2005*

The Secretary of State, in exercise of the powers conferred upon her by sections 390, 392, 393 and 419 of the Insolvency Act 1986^{M1} hereby makes the following Regulations:

Modifications etc. (not altering text)

- C1** Regulations applied (with modifications) (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), arts. 1, 3, **Sch.**
- C2** Regulations applied (with modifications) (8.2.2011) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), reg. 1, **Sch. 3** para. 6(1)(a)(2)(a)
- C3** Regulations applied (with modifications) (8.2.2011) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), reg. 1, **Sch. 6 Pt. 1** (with reg. 27(a))
- C4** Regulations applied (with modifications) (2.1.2013) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) Regulations 2012 \(S.I. 2012/3013\)](#), reg. 1, **Sch. para. 2**

Marginal Citations

- M1** [1986 c. 45](#); section 390 of the Insolvency Act 1986 was amended by section 8 of, and paragraph 16 of Schedule 4 to, the [Insolvency Act 2000 \(c. 39\)](#).

PART 1

Introductory

Citation and commencement.

1. These Regulations may be cited as the Insolvency Practitioners Regulations 2005 and shall come into force on 1st April 2005.

Status: Point in time view as at 26/06/2020.

Changes to legislation: There are currently no known outstanding effects for the The Insolvency Practitioners Regulations 2005. (See end of Document for details)

Interpretation: general

2.—(1) In these Regulations—

“the Act” means the Insolvency Act 1986;

“commencement date” means the date on which these Regulations come into force;

“initial capacity” shall be construed in accordance with regulation 3;

“insolvency practitioner” means [^{F1}a person who is authorised to act as an insolvency practitioner under section 390A of the Act];

“insolvent” means a person in respect of whom an insolvency practitioner is acting;

“interim trustee”, “permanent trustee” and “trust deed for creditors” have the same meanings as in the Bankruptcy (Scotland) Act 1985 ^{M2};

“subsequent capacity” shall be construed in accordance with regulation 3.

(2) In these Regulations a reference to the date of release or discharge of an insolvency practitioner includes—

[^{F2}(za) where the insolvency practitioner acts as the monitor in relation to a moratorium under Part A1 of the Act, whichever is the earlier of the date on which—

(i) the moratorium comes to an end, or

(ii) the insolvency practitioner otherwise ceases to act as the monitor in relation to the moratorium;]

(a) where the insolvency practitioner acts as nominee in relation to proposals for a voluntary arrangement under Part I or VIII of the Act, whichever is the earlier of the date on which—

(i) the proposals are rejected by creditors;

(ii) he is replaced as nominee by another insolvency practitioner; or

(iii) the arrangement takes effect without his becoming supervisor in relation to it; and

(b) where an insolvency practitioner acts as supervisor of a voluntary arrangement, whichever is the earlier of the date on which —

(i) the arrangement is completed or terminated; or

(ii) the insolvency practitioner otherwise ceases to act as supervisor in relation to the arrangement.

Textual Amendments

F1 Words in reg. 2(1) substituted (1.10.2015) by [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(2)** (with arts. 8, 9)

F2 [Reg. 2\(2\)\(za\)](#) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 3 para. 41** (with ss. 2(2), 5(2))

Marginal Citations

M2 1985 c. 66.

Interpretation - meaning of initial and subsequent capacity

3.—(1) In these Regulations an insolvency practitioner holds office in relation to an insolvent in a “subsequent capacity” where he holds office in relation to that insolvent in one of the capacities

referred to in paragraph (3) and immediately prior to his holding office in that capacity, he held office in relation to that insolvent in another of the capacities referred to in that paragraph.

(2) The first office held by the insolvency practitioner in the circumstances referred to in paragraph (1) is referred to in these Regulations as the “initial capacity”.

(3) The capacities referred to in paragraph (1) are, nominee in relation to proposals for a voluntary arrangement under Part I of the Act, supervisor of a voluntary arrangement under Part I of the Act, administrator, provisional liquidator, liquidator, nominee in relation to proposals for a voluntary arrangement under Part VIII of the Act, supervisor of a voluntary arrangement under Part VIII of the Act, trustee, interim trustee and permanent trustee.

Revocations and transitional and saving provisions

4.—(1) Subject to paragraphs (2), (3) and (4), the Regulations listed in Schedule 1 are revoked.

^{F3}(2)

(3) Parts I, III and IV of the Insolvency Practitioners Regulations 1990 shall continue to apply in relation to any case in respect of which an insolvency practitioner is appointed —

- (a) before the commencement date; or
- (b) in a subsequent capacity and he was appointed in an initial capacity in that case before the commencement date.

(4) Only regulations 16 and 17 of these Regulations shall apply in relation to the cases mentioned in paragraph (3).

Textual Amendments

F3 Reg. 4(2) omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(3)** (with arts. 8, 9)

PART 2

Authorisation of Insolvency Practitioners by Competent Authorities

Interpretation of Part

^{F4}5.

Textual Amendments

F4 Reg. 5 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(4)** (with arts. 8, 9)

Matters for determining whether an applicant for an authorisation is a fit and proper person

^{F5}6.

Status: Point in time view as at 26/06/2020.

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Textual Amendments

F5 Reg. 6 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(4)** (with arts. 8, 9)

Requirements as to education and training – applicants who have never previously been authorised to act as insolvency practitioners

^{F6}7.

Textual Amendments

F6 Reg. 7 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(4)** (with arts. 8, 9)

Requirements relating to education and training etc. – applicants previously authorised to act as insolvency practitioners

^{F7}8.

Textual Amendments

F7 Reg. 8 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(4)** (with arts. 8, 9)

Requirements relating to education and training etc. – further authorisation to act as insolvency practitioners

^{F8}8A.

Textual Amendments

F8 Reg. 8A omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(4)** (with arts. 8, 9)

Records of continuing professional development activities

^{F9}9.

Textual Amendments

F9 Reg. 9 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(4)** (with arts. 8, 9)

Maximum period of authorisation

^{F10}10.

Textual Amendments

F10 Reg. 10 revoked (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 5** (with reg. 5)

Returns by insolvency practitioners authorised by the Secretary of State

^{F11}11.

Textual Amendments

F11 Reg. 11 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(5)** (with arts. 8, 9)

PART 3

The Requirements for Security and Caution for the Proper Performance of the Functions of an Insolvency Practitioner etc.

12.—(1) Schedule 2 shall have effect in respect of the requirements prescribed for the purposes of section 390(3)(b) in relation to security or caution for the proper performance of the functions of an insolvency practitioner and for related matters.

(2) Where two or more persons are appointed jointly to act as insolvency practitioners in relation to any person, the provisions of this regulation shall apply to each of them individually.

[^{F12}(3) Where, in accordance with sections 390(2) and 390A(2)(b) of the Act a person is qualified to act as an insolvency practitioner by virtue of an authorisation granted by the Department of Enterprise, Trade and Investment for Northern Ireland under Article 352 of the Insolvency (Northern Ireland) Order 1989, this Part applies in relation to that person as if that authorisation had been granted pursuant to section 393 of the Act immediately before 1st October 2015.]

Textual Amendments

F12 Reg. 12(3) substituted (1.10.2015) by [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(6)** (with arts. 8, 9)

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PART 4

Records to be maintained by Insolvency Practitioners — Inspection of Records

Records to be maintained by insolvency practitioners

13.—^{F13}(1) In respect of each case in which an insolvency practitioner acts, the insolvency practitioner shall maintain records containing information sufficient to show and explain—

- (a) the administration of that case by the insolvency practitioner and the insolvency practitioner’s staff; and
- (b) any decisions made by the insolvency practitioner which materially affect that case.]

(2) Where at any time the records referred to in paragraph (1) do not contain all the information referred to in [^{F14}paragraph (1)], the insolvency practitioner shall forthwith make such changes to the records as are necessary to ensure that the records contains all such information.

^{F15}(3)

^{F15}(4)

(5) Any records created in relation to a case pursuant to this regulation shall be preserved by the insolvency practitioner until whichever is the later of—

- (a) the sixth anniversary of the date of the grant to the insolvency practitioner of his release or discharge in that case; or
- (b) the sixth anniversary of the date on which any security or caution maintained in that case expires or otherwise ceases to have effect.

Textual Amendments

F13 Reg. 13(1) substituted (1.10.2015) by [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, **3(1)**

F14 Words in reg. 13(2) substituted (1.10.2015) by [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, **3(2)**

F15 Reg. 13(3)(4) revoked (1.10.2015) by [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, **3(3)**

Notification of whereabouts of records

^{F16}14.

Textual Amendments

F16 Reg. 14 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, **Sch. 1 para. 5(7)** (with arts. 8, 9)

Inspection of records

15.—(1) Any records maintained by an insolvency practitioner pursuant to this Part shall on the giving of reasonable notice be made available by him for inspection by—

- (a) any professional body recognised under section 391 of the Act of which he is a member and the rules of membership of which entitle him to act as an insolvency practitioner;

^{F17}(b)

(c) the Secretary of State.

(2) Any person who is entitled to inspect any record pursuant to paragraph (1) shall also be entitled to take a copy of those records.

Textual Amendments

F17 Reg. 15(1)(b) omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, [Sch. 1 para. 5\(8\)](#) (with arts. 8, 9)

Inspection of practice records

^{F18}**16.**

Textual Amendments

F18 Reg. 16 omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, [Sch. 1 para. 5\(9\)](#) (with arts. 8, 9)

Inspection of records in administration and administrative receiverships

17. On the giving of reasonable notice to the insolvency practitioner, the Secretary of State shall be entitled to inspect and take copies of any records in the possession or control of that insolvency practitioner which—

- (a) were required to be created by or under any provision of the Act (or any provision made under the Act); and
- (b) relate to an administration or an administrative receivership.

Gerry Sutcliffe
Parliamentary Under Secretary of State for
Employment Relations, Consumers and Postal
Services
Department of Trade and Industry

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The Insolvency Practitioners Regulations 2005. (See end of Document for details)

SCHEDULE 1

Regulation 4

REGULATIONS REVOKED

- ^{M3}The Insolvency Practitioners Regulations 1990
- ^{M4}The Insolvency Practitioners (Amendment) Regulations 1993
- ^{M5}The Insolvency Practitioners (Amendment) Regulations 2002
- ^{M6}The Insolvency Practitioners (Amendment) (No 2) Regulations 2002
- ^{M7}The Insolvency Practitioners (Amendment) Regulations 2004

Marginal Citations

- M3** S.I. 1990/439.
- M4** S.I. 1993/221.
- M5** S.I. 2002/2710.
- M6** S.I. 2002/2748.
- M7** S.I. 2004/473.

Marginal Citations

- M3** S.I. 1990/439.
- M4** S.I. 1993/221.
- M5** S.I. 2002/2710.
- M6** S.I. 2002/2748.
- M7** S.I. 2004/473.

SCHEDULE 2

Regulation 12

REQUIREMENTS FOR SECURITY OR CAUTION AND RELATED MATTERS

PART 1

Interpretation

Interpretation

1. In this Schedule—

“cover schedule” means the schedule referred to in paragraph 3(2)(c);

“the insolvent” means the individual or company in relation to which an insolvency practitioner is acting;

“general penalty sum” shall be construed in accordance with paragraph 3(2)(b);

“insolvent's assets” means all assets comprised in the insolvent's estate together with any monies provided by a third party for the payment of the insolvent's debts or the costs and expenses of administering the insolvent's estate;

[^{F19}“professional liability insurance” means insurance taken out by the insolvency practitioner in respect of potential liabilities to the insolvent and third parties arising out of acting as an insolvency practitioner;]

“specific penalty sum” shall be construed in accordance with paragraph 3(2)(a).

Textual Amendments

F19 Words in [Sch. 2 para. 1](#) inserted (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), [reg. 1](#), [Sch. para. 8\(2\)](#) (with [reg. 5](#))

PART 2

Requirements relating to security and caution

Requirements in respect of security or caution

2. The requirements in respect of security or caution for the proper performance of the duties of insolvency practitioners prescribed for the purposes of section 390(3)(b) shall be as set out in this Part.

[^{F20}Requirement for bond or professional liability insurance

2A. Where an insolvency practitioner is appointed to act in respect of an insolvent there must be in force—

- (a) a bond in a form approved by the Secretary of State which complies with paragraph 3; or
- (b) where the insolvency practitioner is already established in another EEA state and is already covered in that state by professional liability insurance or a guarantee, professional liability insurance or a guarantee which complies with paragraph 8A.]

Textual Amendments

F20 [Sch. 2 para. 2A](#) added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), [reg. 1](#), [Sch. para. 8\(3\)](#) (with [reg. 5](#))

[^{F21}Terms of the bond]

3.—[^{F22}(1) The bond must—

- (a) be in writing or in electronic form;
 - (b) contain provision whereby a surety or cautioner undertakes to be jointly and severally liable for losses in relation to the insolvent caused by—
 - (i) the fraud or dishonesty of the insolvency practitioner whether acting alone or in collusion with one or more persons; or
 - (ii) the fraud or dishonesty of any person committed with the connivance of the insolvency practitioner; and
 - (c) otherwise conform to the requirements of this paragraph and paragraphs 4 to 8.]
- (2) The terms of the bond shall provide—

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- (a) for the payment, in respect of each case where the insolvency practitioner acts, of claims in respect of liabilities for losses of the kind mentioned in sub-paragraph (1) up to an aggregate maximum sum in respect of that case (“the specific penalty sum”) calculated in accordance with the provisions of this Schedule;
 - (b) in the event that any amounts payable under (a) are insufficient to meet all claims arising out of any case, for a further sum of £250,000 (“the general penalty sum”) out of which any such claims are to be met;
 - (c) for a schedule containing the name of the insolvent and the value of the insolvent's assets to be submitted to the surety or cautioner within such period as may be specified in the bond;
 - (d) that where at any time before the insolvency practitioner obtains his release or discharge in respect of his acting in relation to an insolvent, he forms the opinion that the value of that insolvent's assets is greater than the current specific penalty sum, a revised specific penalty sum shall be applicable on the submission within such time as may be specified in the bond of a cover schedule containing a revised value of the insolvent's assets;
 - (e) for the payment of losses of the kind mentioned in sub-paragraph (1), whether they arise during the period in which the insolvency practitioner holds office in the capacity in which he was initially appointed or a subsequent period where he holds office in a subsequent capacity;
- (3) The terms of the bond may provide—
- (a) that total claims in respect of the acts of the insolvency practitioner under all bonds relating to him are to be limited to a maximum aggregate sum (which shall not be less than than £25,000,000); and
 - (b) for a time limit within which claims must be made.

Textual Amendments

- F21** Sch. 2 para. 3 title substituted (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(4)(a)** (with reg. 5)
- F22** Sch. 2 para. 3(1) substituted (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(4)(b)** (with reg. 5)

4. Subject to paragraphs 5, 6 and 7, the amount of the specific penalty in respect of a case in which the insolvency practitioner acts, shall equal at least the value of the insolvent's assets as estimated by the insolvency practitioner as at the date of his appointment but ignoring the value of any assets—

- (a) charged to a third party to the extent of any amount which would be payable to that third party; or
- (b) held on trust by the insolvent to the extent that any beneficial interest in those assets does not belong to the insolvent.

5. In a case where an insolvency practitioner acts as a nominee or supervisor of a voluntary arrangement under Part I or Part VIII of the Act, the amount of the specific penalty shall be equal to at least the value of those assets subject to the terms of the arrangement (whether or not those assets are in his possession) including, where under the terms of the arrangement the debtor or a third party is to make payments, the aggregate of any payments to be made.

6. Where the value of the insolvent's assets is less than £5,000, the specific penalty sum shall be £5,000.

7. Where the value of the insolvent's assets is more than £5,000,000 the specific penalty sum shall be £5,000,000.

8. In estimating the value of an insolvent's assets, unless he has reason to doubt their accuracy, the insolvency practitioner may rely upon—

- (a) any statement of affairs produced in relation to that insolvent pursuant to any provision of the Act; and
- (b) in the case of a sequestration—
 - (i) the debtor's list of assets and liabilities under section 19 of the Bankruptcy (Scotland) Act 1985 ^{M8};
 - (ii) the preliminary statement under that Act; or
 - (iii) the final statement of the debtor's affairs by the interim trustee under section 23 of the Bankruptcy (Scotland) Act 1985.

Marginal Citations

M8 1985 c. 66.

[^{F23}Compliance of professional liability insurance cover in another EEA state

8A. Where paragraph 2A(b) applies to an insolvency practitioner, the professional liability insurance or guarantee complies with this paragraph if the Secretary of State determines that it is equivalent or essentially comparable to the bond referred to in paragraph 3 as regards—

- (a) its purpose, and
- (b) the cover it provides in terms of—
 - (i) the risk covered,
 - (ii) the amount covered, and
 - (iii) exclusions from the cover.]

Textual Amendments

F23 Sch. 2 paras. 8A-8E added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(5)** (with reg. 5)

[^{F23}Procedure for determining compliance of professional liability insurance or guarantee

8B.—(1) Where an insolvency practitioner seeks a determination under paragraph 8A, the insolvency practitioner must send to the Secretary of State—

- (a) a copy of the document providing the professional liability insurance or guarantee cover in the EEA state in which the insolvency practitioner is established;
- (b) where the document in sub-paragraph (a) is not in English, a translation of it into English; and

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- (c) a notice—
- (i) where the insolvency practitioner intends to act in respect of an insolvent, specifying—
 - (aa) the name of the insolvent; and
 - (bb) the time and date when the insolvency practitioner intends to consent to be appointed to act; or
 - (ii) that the insolvency practitioner seeks a determination without reference to a specific appointment.
- (2) Where there is a notice sent under sub-paragraph (1)(c)(i), the documents sent under sub-paragraph (1) must be sent to the Secretary of State such that the Secretary of State receives them no later than 5 business days before the date in the notice.
- (3) Where the Secretary of State receives the documents sent under sub-paragraph (1), the Secretary of State must—
- (a) as soon as is reasonably practicable, notify the insolvency practitioner whether they were received in accordance with sub-paragraph (2);
 - (b) consider them; and
 - (c) determine whether the document sent under sub-paragraph (1)(a) complies with paragraph 8A.
- (4) Where the Secretary of State determines that the document sent under sub-paragraph (1)(a) complies with paragraph 8A, the Secretary of State must—
- (a) notify the insolvency practitioner that it complies with paragraph 8A; and
 - (b) determine whether it contains a term equivalent or essentially comparable to a requirement to provide—
 - (i) a specific penalty sum; or
 - (ii) a cover schedule.
- (5) Where the Secretary of State determines under sub-paragraph (4)(b) that the document sent under sub-paragraph (1)(a)—
- (a) contains a term equivalent or essentially comparable to a requirement to provide a specific penalty sum or a cover schedule, the notice sent under paragraph (4)(a) must specify—
 - (i) the term equivalent or essentially comparable to a requirement to provide a specific penalty sum or a cover schedule; and
 - (ii) the thing in the term in sub-paragraph (i) which is equivalent or essentially comparable to a specific penalty sum or a cover schedule; or
 - (b) does not contain a term equivalent or essentially comparable to a requirement to provide a specific penalty sum or a cover schedule, the notice sent under paragraph (4)(a) must state that determination.
- (6) Where the Secretary of State determines that the document sent under sub-paragraph (1)(a) does not comply with paragraph 8A, the Secretary of State must notify the insolvency practitioner and—
- (a) give reasons for the determination; and
 - (b) specify any terms which, if included in a supplementary guarantee, will cause the Secretary of State to make a determination in accordance with paragraph 8A.
- (7) In this paragraph a “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under or by virtue of the Banking and Financial Dealings Act 1971.

(8) Any documents in this paragraph or paragraph 8C or 8D may be sent electronically.]

Textual Amendments

F23 Sch. 2 paras. 8A-8E added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(5)** (with reg. 5)

[^{F23}Procedure for determining compliance of supplementary guarantee

8C.—(1) Where the Secretary of State has made a determination under paragraph 8B(6), the insolvency practitioner may send to the Secretary of State—

- (a) a supplementary guarantee purporting to provide for the matters specified in paragraph 8B(6)(b); and
- (b) where the supplementary guarantee is not in English, a translation of it into English.

(2) Where the Secretary of State receives the documents sent under sub-paragraph (1), the Secretary of State must—

- (a) as soon as is reasonably practicable, notify the insolvency practitioner of the date and time of their receipt;
- (b) consider them; and
- (c) determine whether the document sent under sub-paragraph (1)(a) provides for the matters specified in paragraph 8B(6)(b).

(3) Where the Secretary of State determines that the document sent under sub-paragraph (1)(a)—

- (a) provides for the matters in specified in paragraph 8B(6)(b); and
- (b) together with the document in paragraph 8B(1)(a) complies with paragraph 8A,

the Secretary of State must notify the insolvency practitioner that the documents sent under sub-paragraph (1)(a) and paragraph 8B(1)(a) together comply with paragraph 8A.

(4) Where the Secretary of State determines in accordance with sub-paragraph (3), the Secretary of State must also determine whether the document sent under sub-paragraph (1)(a) or paragraph 8B(1)(a) contains a term equivalent or essentially comparable to a requirement to provide—

- (a) a specific penalty sum; or
- (b) a cover schedule.

(5) Where the Secretary of State determines under sub-paragraph (4) that the document sent under sub-paragraph (1)(a) or paragraph 8B(1)(a)—

- (a) contains a term equivalent or essentially comparable to a requirement to provide a specific penalty sum or a cover schedule, the notice sent under sub-paragraph (3) must specify—
 - (i) the term equivalent or essentially comparable to a requirement to provide a specific penalty sum or a cover schedule;
 - (ii) the thing in the term in sub-paragraph (i) which is equivalent or essentially comparable to a requirement to a specific penalty sum or a cover schedule; and
 - (iii) the document in which the term in sub-paragraph (i) and the thing in sub-paragraph (ii) are to be found; or
- (b) does not contain a term equivalent or essentially comparable to a requirement to provide a specific penalty sum or a cover schedule, the notice sent under sub-paragraph (3) must state that determination.

(6) Where the Secretary of State determines that the document sent under sub-paragraph (1)(a)—

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- (a) does not provide for the matters specified in paragraph 8B(6)(b), or
- (b) together with the document sent under paragraph 8B(1)(a) does not comply with paragraph 8A,

the Secretary of State must notify the insolvency practitioner that the documents sent under subparagraphs (1)(a) and paragraph 8B(1)(a) together do not comply with paragraph 8A.]

Textual Amendments

F23 Sch. 2 paras. 8A-8E added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(5)** (with reg. 5)

[^{F23}Time for notification of determinations

8D.—(1) The Secretary of State must notify the insolvency practitioner of the determinations under paragraph 8B or 8C in the periods set out in this paragraph.

- (2) The Secretary of State must notify the insolvency practitioner—
 - (a) where a notice under paragraph 8B(1)(c)(i) is received by the Secretary of State in accordance with paragraph 8B(2) and the determination is under—
 - (i) paragraph 8B(4), (5) or (6), such that the insolvency practitioner receives the notice sent under paragraph 8B(4) or (6) or before the time and date in the notice sent under paragraph 8B(1)(c)(i); or
 - (ii) paragraph 8C(4), (5) or (6), as soon as is reasonably practicable after receipt of the documents sent under paragraph 8C(1);
 - (b) where a notice sent under paragraph 8B(1)(c)(i) is received by the Secretary of State but not in accordance with paragraph 8B(2), and the determination is under—
 - (i) paragraph 8B(4), (5) or (6), as soon as is reasonably practicable after receipt of the documents sent under paragraph 8B(1); or
 - (ii) paragraph 8C(3), (5) or (6), as soon as is reasonably practicable after receipt of the documents sent under paragraph 8C(1); or
 - (c) where the notice is sent under paragraph 8B(1)(c)(ii), and the determination is under—
 - (i) paragraph 8B(4), (5) or (6), within 28 days of receipt of the documents sent under paragraph 8B(1); or
 - (ii) paragraph 8C(3), (5) or (6), within 14 days of receipt of the documents sent under paragraph 8C(1).]

Textual Amendments

F23 Sch. 2 paras. 8A-8E added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(5)** (with reg. 5)

[^{F23}Notification of determination out of time

- 8E.**—(1) This paragraph applies where the insolvency practitioner—
 - (a) sends a notice under paragraph 8B(1)(c)(i);
 - (b) receives notification sent under paragraph 8B(3)(a) that the Secretary of State received the documents in paragraph 8B(1) in accordance with paragraph 8B(2); and

- (c) does not receive the notifications in the time in paragraph 8D(2)(a)(i).
- (2) The insolvency practitioner is qualified to act as an insolvency practitioner in respect of the insolvent specified in the notice under paragraph 8B(1)(c)(i) until the Secretary of State notifies the insolvency practitioner of the determination under paragraph 8B or 8C.
- (3) Subject to sub-paragraph (4), where the Secretary of State notifies the insolvency practitioner of the determination under paragraph 8B or 8C—
 - (a) the determination applies; and
 - (b) the insolvency practitioner ceases to be qualified to act as an insolvency practitioner under sub-paragraph (2).
- (4) Where—
 - (a) the Secretary of State gives notice under paragraph 8B(6); and
 - (b) the insolvency practitioner sends the documents in paragraph 8C(1),
 the insolvency practitioner is qualified to act as an insolvency practitioner under sub-paragraph (2) until the Secretary of State determines in accordance with paragraph 8C(4) or (6).]

Textual Amendments

F23 Sch. 2 paras. 8A-8E added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(5)** (with reg. 5)

PART 3

Records relating to bonding and connected matters

Record of specific penalty sums to be maintained by insolvency practitioner

- 9.—**(1) An insolvency practitioner shall maintain a record of all specific penalty sums that are applicable in relation to any case where he is acting and such record shall contain the name of each person to whom the specific penalty sum relates and the amount of each penalty sum that is in force.
- (2) Any record maintained by an insolvency practitioner pursuant to this paragraph shall, on the giving of reasonable notice, be made available for inspection by—
- (a) any professional body recognised under section 391 of the Act of which he is or was a member and the rules of membership of which entitle or entitled him to act as an insolvency practitioner;
 - ^{F24}(b)
 - (c) the Secretary of State.
- [^{F25}(3) Subject to sub-paragraph (4), where the Secretary of State has notified the insolvency practitioner in accordance with paragraph 8B(5)(a) or 8C(5)(a) in relation to a specific penalty sum, the thing notified under paragraph 8B(5)(a)(ii) or 8C(5)(a)(ii) is construed as a specific penalty sum for the purposes of this paragraph ^{F26}....
- (4) Where the Secretary of State has notified the insolvency practitioner in accordance with paragraph 8B(5)(b) or 8C(5)(b) in relation to a specific penalty sum, this paragraph does not apply.]

Status: Point in time view as at 26/06/2020.
Changes to legislation: There are currently no known outstanding effects for the
 The Insolvency Practitioners Regulations 2005. (See end of Document for details)

Textual Amendments

F24 Sch. 2 para. 9(2)(b) omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, [Sch. 1 para. 5\(10\)](#) (with arts. 8, 9)

F25 Sch. 2 para. 9(3)(4) added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, [Sch. para. 8\(6\)](#) (with reg. 5)

F26 Words in Sch. 2 para. 9(3) omitted (1.10.2015) by virtue of [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, 5

Retention of bond by recognised professional body or competent authority

10.—^{F27}(1) ^{F28}[The documents in sub-paragraph (2) or a copy must] be sent by the insolvency practitioner to—

- (a) any professional body recognised under section 391 of the Act of which he is a member and the rules of membership of which entitle him to act as an insolvency practitioner; or

^{F29}(b)

^{F30}(2) The documents in this sub-paragraph are—

- (a) the bond referred to in paragraph 3;
- (b) where the Secretary of State has determined under paragraph 8B(4)—
 - (i) the document in paragraph 8B(1)(a) and (b); and
 - (ii) the notice under paragraph 8B(4);
- (c) where the Secretary of State has determined under paragraph 8C(4)
 - (i) the documents in paragraphs 8B(1)(a) and (b) and 8C(1)(a) and (b); and
 - (ii) the notice under paragraph 8C(3).

(3) The document in sub-paragraph (2) or a copy of it may be sent electronically.]

Textual Amendments

F27 Sch. 2 para. 10 renumbered as Sch. 2 para. 10(1) (28.12.2009) by virtue of [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, [Sch. para. 8\(7\)\(a\)](#) (with reg. 5)

F28 Words in Sch. 2 para. 10(1) substituted (28.12.2009) by virtue of [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, [Sch. para. 8\(7\)\(a\)](#) (with reg. 5)

F29 Sch. 2 para. 10(1)(b) omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, [Sch. 1 para. 5\(11\)](#) (with arts. 8, 9)

F30 Sch. 2 para. 10(2)(3) added (28.12.2009) by virtue of [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, [Sch. para. 8\(7\)\(b\)](#) (with reg. 5)

Inspection and retention requirements relating to cover schedule – England and Wales

11.—(1) This regulation applies to an insolvency practitioner appointed in insolvency proceedings under the Act to act—

- (a) in relation to a company which the courts in England and Wales have jurisdiction to wind up; or
- (b) in respect of an individual.

(2) The insolvency practitioner shall retain a copy of the cover schedule submitted by him in respect of his acting in relation to the company or, as the case may be, individual until the second anniversary of the date on which he is granted his release or discharge in relation to that company or, as the case may be, that individual.

(3) The copy of a schedule kept by an insolvency practitioner in pursuance of sub-paragraph (2) shall be produced by him on demand for inspection by—

- (a) any creditor of the person to whom the schedule relates;
- (b) where the schedule relates to an insolvent who is an individual, that individual;
- (c) where the schedule relates to an insolvent which is a company, any contributory or director or other officer of the company; and
- (d) the Secretary of State.

[^{F31}(4) Subject to sub-paragraph (5), where the Secretary of State has notified the insolvency practitioner in accordance with paragraph 8B(5)(a) or 8C(5)(a) in relation to a cover schedule, the thing notified under paragraph 8B(5)(a)(ii) or 8C(5)(a)(ii) is construed as a cover schedule for the purposes of this paragraph, paragraph 12 [^{F32}and] paragraph 13 ^{F33}....

(5) Where the Secretary of State has notified the insolvency practitioner in accordance with paragraph 8B(5)(b) or 8C(5)(b) in relation to a cover schedule, this paragraph, paragraph 12 and paragraph 13 do not apply.]

Textual Amendments

- F31** Sch. 2 para. 11(4)(5) added (28.12.2009) by [The Provision of Services \(Insolvency Practitioners\) Regulations 2009 \(S.I. 2009/3081\)](#), reg. 1, **Sch. para. 8(8)** (with reg. 5)
- F32** Word in Sch. 2 para. 11(4) substituted for comma (1.10.2015) by [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, **6**
- F33** Words in Sch. 2 para. 11(4) omitted (1.10.2015) by virtue of [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, **6**

Inspection and retention requirements relating to the cover schedule— Scotland

12.—[^{F34}(1) Where an insolvency practitioner is appointed to act in relation to a company which is in administration, or for which there is a proposal for a company voluntary arrangement, the practitioner shall retain in the sederunt book kept under rule 1.54 of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 (sederunt book), the principal copy of any cover schedule containing entries in relation to the insolvency practitioner so acting.

(1A) Where an insolvency practitioner is appointed to act in relation to a company which is subject to proceedings for winding up, the practitioner shall retain in the sederunt book kept under rule 1.54 of the Insolvency (Scotland) (Receivership and Winding Up) Rules 2018 (sederunt book) the principal copy of any cover schedule containing entries in relation to the insolvency practitioner so acting.]

(2) Where an insolvency practitioner is appointed to act as interim trustee or permanent trustee or as a trustee under a trust deed for creditors, he shall retain in the sederunt book kept for those proceedings, the principal copy of any cover schedule containing entries in relation to his so acting.

Textual Amendments

- F34** Sch. 2 para. 12(1)(1A) substituted for Sch. 2 para. 12(1) (23.7.2019) by [The Insolvency \(Scotland\) Rules 2018 \(Miscellaneous Amendments\) Rules 2019 \(S.I. 2019/1059\)](#), rules 1, **4**

Status: Point in time view as at 26/06/2020.

Changes to legislation: There are currently no known outstanding effects for the The Insolvency Practitioners Regulations 2005. (See end of Document for details)

Requirements to submit cover schedule to authorising body

13.—(1) Every insolvency practitioner shall submit to his authorising body not later than 20 days after the end of each month during which he holds office in a case—

- (a) the information submitted to a surety or cautioner in any cover schedule related to that month;
- (b) where no cover schedule is submitted in relation to the month, a statement either that there are no relevant particulars to be supplied or, as the case may be, that it is not practicable to supply particulars in relation to any appointments taken in that month; and
- (c) a statement identifying any case in respect of which he has been granted his release or discharge.

(2) In this regulation “authorising body” means in relation to an insolvency practitioner—

- (a) any professional body recognised under section 391 of the Act of which he is a member and the rules of membership of which entitle him to act as an insolvency practitioner; or

^{F35}(b)

.....

Textual Amendments

F35 Sch. 2 para. 13(2)(b) omitted (1.10.2015) by virtue of [The Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(S.I. 2015/1641\)](#), art. 3, [Sch. 1 para. 5\(12\)](#) (with arts. 8, 9)

^{F36}SCHEDULE 3

Regulation 13

.....

.....

Textual Amendments

F36 Sch. 3 revoked (1.10.2015) by [The Insolvency Practitioners \(Amendment\) Regulations 2015 \(S.I. 2015/391\)](#), regs. 1, 7

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the regulation of insolvency practitioners. These Regulations replace the Regulations listed in Schedule 1 subject to the transitional and saving provisions in regulation 4. Regulation 6 makes provision as regards the matters to be taken into account by a competent authority in determining whether an individual is a fit and proper person to hold an authorisation under section 393 of the Insolvency Act 1986. Regulations 7 and 8 set out prescribed requirements as to education and training in relation to insolvency practitioners seeking an authorisation from a competent authority. Regulation 9 sets out obligations imposed

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on insolvency practitioners authorised by the Secretary of State with regard to the keeping of records relating to continuing professional development. Regulation 10 sets the maximum period for an insolvency authorisation granted by a competent authority at 3 years. Regulation 11 makes provision in relation to annual returns to be made to the Secretary of State by insolvency practitioners authorised by her in relation to their insolvency practice. Regulation 12 and Schedule 2 make provision in relation to the security or caution that an insolvency practitioner must obtain for the proper performance of his duties. This is in the form of a bond against which claims may be made in the event of losses caused or facilitated by the fraud or dishonesty of the insolvency practitioner.

Regulation 13 makes provision for the creation and maintenance of records containing the details set out in Schedule 3 to the Regulations. Regulations 14 and 15 make provision about the inspection of those records by the Secretary of State and others. Regulation 16 allows the Secretary of State to inspect and take copies of the records of any person which record receipts and payments, time spent on the case and other management matters in relation to any case where an insolvency practitioner authorised by the Secretary of State acts. Regulation 17 makes provision for the inspection by the Secretary of State of records relating to an administration or an administrative receivership.

No Regulatory Impact Assessment has been prepared in relation to these Regulations as they will not impose any significant costs on business.

Status:

Point in time view as at 26/06/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Insolvency Practitioners Regulations 2005.