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STATUTORY INSTRUMENTS

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**2005 No. 524**

**The Insolvency Practitioners Regulations 2005**

**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.

**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 [<sup>F1</sup>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 <sup>M1</sup>;

“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—

[<sup>F2</sup>(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

- M1** 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.

<sup>F3</sup>(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

<sup>F4</sup>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

<sup>F5</sup>6. ....

##### 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

<sup>F6</sup>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

<sup>F7</sup>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**

<sup>F8</sup>**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**

<sup>F9</sup>**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**

<sup>F10</sup>**10.** .....

**Textual Amendments**

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

**Returns by insolvency practitioners authorised by the Secretary of State**

<sup>F11</sup>**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.

[<sup>F12</sup>(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)

## PART 4

### Records to be maintained by Insolvency Practitioners — Inspection of Records

#### Records to be maintained by insolvency practitioners

13.—[<sup>F13</sup>(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 [<sup>F14</sup>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.

<sup>F15</sup>(3) .....

<sup>F15</sup>(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**

<sup>F16</sup>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;

<sup>F17</sup>(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**

<sup>F18</sup>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.

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

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

**Changes to legislation:**

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