

SCHEDULE 1

Regulation 4

REGULATIONS REVOKED

^{M1}The Insolvency Practitioners Regulations 1990

^{M2}The Insolvency Practitioners (Amendment) Regulations 1993

^{M3}The Insolvency Practitioners (Amendment) Regulations 2002

^{M4}The Insolvency Practitioners (Amendment) (No 2) Regulations 2002

^{M5}The Insolvency Practitioners (Amendment) Regulations 2004

Marginal Citations

M1 S.I. 1990/439.

M2 S.I. 1993/221.

M3 S.I. 2002/2710.

M4 S.I. 2002/2748.

M5 S.I. 2004/473.

Marginal Citations

M1 S.I. 1990/439.

M2 S.I. 1993/221.

M3 S.I. 2002/2710.

M4 S.I. 2002/2748.

M5 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;

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

[^{F1}“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
F1 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.

[^{F2}Requirement for bond ^{F3} ...

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; ^{F4} ...

^{F4}(b)]

Textual Amendments
F2 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)
F3 Words in Sch. 2 para. 2A heading omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), **23(2)**; 2020 c. 1, Sch. 5 para. 1(1)
F4 Sch. 2 para. 2A(b) and word omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), **23(3)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F5}Terms of the bond]

3.—[^{F6}(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—
- (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

- F5** 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)
- F6** 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.

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

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 ^{M6};
 - (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.

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Marginal Citations
M6 1985 c. 66.

Compliance of professional liability insurance cover in another EEA state

^{F7}8A.

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Textual Amendments
F7 Sch. 2 paras. 8A-8E omitted (31.12.2020) by virtue of The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), 23(4); 2020 c. 1, Sch. 5 para. 1(1)

Procedure for determining compliance of professional liability insurance or guarantee

^{F7}8B.

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Textual Amendments
F7 Sch. 2 paras. 8A-8E omitted (31.12.2020) by virtue of The Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1329), regs. 1(1), 23(4); 2020 c. 1, Sch. 5 para. 1(1)

Procedure for determining compliance of supplementary guarantee

^{F7}8C.

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

F7 Sch. 2 paras. 8A-8E omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1329), regs. 1(1), **23(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Time for notification of determinations

F7 8D.

Textual Amendments

F7 Sch. 2 paras. 8A-8E omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1329), regs. 1(1), **23(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Notification of determination out of time

F7 8E.

Textual Amendments

F7 Sch. 2 paras. 8A-8E omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1329), regs. 1(1), **23(4)**; 2020 c. 1, Sch. 5 para. 1(1)

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;

F8(b)

- (c) the Secretary of State.

F9(3)

F9(4)

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

- F8** 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)
- F9** Sch. 2 para. 9(3)(4) omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), **23(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Retention of bond by recognised professional body or competent authority

10.—^{F10}(1) ^{F11} ^{F12}The bond referred to in paragraph 3] 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
- ^{F13}(b)
- ^{F14} ^{F15}(2)
- (3) ^{F16}The bond referred to in paragraph 3] or a copy of it may be sent electronically.]

Textual Amendments

- F10** 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)
- F11** 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)
- F12** Words in Sch. 2 para. 10(1) substituted (31.12.2020) by [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), **23(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** 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)
- F14** Sch. 2 para. 10(2) omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), **23(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** 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)
- F16** Words in Sch. 2 para. 10(3) substituted (31.12.2020) by [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1329\)](#), regs. 1(1), **23(6)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

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.

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

(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.

^{F17}(4)

^{F17}(5)

Textual Amendments

F17 Sch. 2 para. 11(4)(5) omitted (31.12.2020) by virtue of [The Provision of Services \(Amendment etc.\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1329), regs. 1(1), **23(7)**; 2020 c. 1, Sch. 5 para. 1(1)

Inspection and retention requirements relating to the cover schedule— Scotland

12.—^{F18}(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

F18 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

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.

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

- (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
 - ^{F19}(b)

.....

Textual Amendments

F19 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)

^{F20}SCHEDULE 3

Regulation 13

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Textual Amendments

F20 Sch. 3 revoked (1.10.2015) by The Insolvency Practitioners (Amendment) Regulations 2015 (S.I. 2015/391), regs. 1, 7

Changes to legislation:

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