

2015 No. 1641

DEREGULATION

**The Deregulation Act 2015 (Insolvency) (Consequential
Amendments and Transitional and Savings Provisions) Order
2015**

<i>Made</i> - - - -	<i>1st September 2015</i>
<i>Laid before Parliament</i>	<i>4th September 2015</i>
<i>Coming into force</i> - -	<i>1st October 2015</i>

The Secretary of State, in exercise of the powers conferred by section 112(1), (2) and (4) of the Deregulation Act 2015(a), makes the following Order.

Citation, interpretation and commencement

1. This Order may be cited as the Deregulation Act 2015 (Insolvency) (Consequential Amendments and Transitional and Savings Provisions) Order 2015.

2. In this Order—

“the Act” means the Deregulation Act 2015;

“the 1986 Act” means the Insolvency Act 1986(b); and

“the transitional period” means the period of one year beginning with on 1st October 2015.

3. This Order comes into force on 1st October 2015.

Consequential amendments to secondary legislation

4. Schedule 1 to this Order has effect, subject to the savings provisions in articles 8 and 9.

5. Schedule 2 to this Order has effect.

6. Schedule 3 to this Order has effect subject to the savings provisions in article 10.

Transitional and savings provisions

7.—(1) Where, during the transitional period, the Secretary of State grants an application made, before 1st October 2015, by an individual for authorisation to act as an insolvency practitioner pursuant to section 393 of the 1986 Act, the individual to whom authorisation is granted must, as soon as reasonably practicable, pay to the Secretary of State a fee in connection with the maintenance of the authorisation.

(a) 2015 c.20.
(b) 1986 c. 45.

(2) The fee shall be calculated by multiplying £2400 by the number of days the authorisation has to run (starting with the date of authorisation and ending on 30th September 2016) and dividing the result by 365.

8.—(1) Subject to paragraph (2), the amendments made by article 4 of, and Schedule 1 to, this Order have no effect for the duration of the transitional period in relation to an individual who before the 1st October 2015—

- (a) has applied for authorisation to act as an insolvency practitioner under section 392 of the 1986 Act and that application has not been granted, refused or withdrawn; or
- (b) holds an authorisation so to act granted under section 393 of the 1986 Act.

(2) The reference in paragraph (1) to Schedule 1 to this Order does not include paragraphs 3(2), 4(3), 5(3) and 5(5) of that Schedule.

9.—(1) Where during the transitional period section 393(3A) of the Insolvency 1986 Act applies to an authorisation to act as an insolvency practitioner by virtue of paragraph 23(2) of Schedule 6 to the Act, and the insolvency practitioner has not requested or consented to a withdrawal of the authorisation, the revocation of regulation 11 of the Insolvency Practitioners Regulations 2005(a) by article 4 of, and paragraphs 5(1) and (5) of Schedule 1 to, this Order shall have no effect.

(2) During the transitional period the Secretary of State may request that the holder of an authorisation granted by the Secretary of State to act as an insolvency practitioner provide any information relating to any matters of the kind referred to in paragraph (1) of regulation 11 of the Insolvency Practitioners Regulations 2005 and any such request must be complied with within one month of its receipt or within such longer period as the Secretary of State may allow.

10. The revocations and amendments made by paragraph 1 of Schedule 3 to this Order have no effect in relation to a deed of arrangement registered under section 5 of the Deeds of Arrangement Act 1914(b) before 1st October 2015 if, immediately before that date, the estate of the debtor who executed the deed of arrangement has not been fully wound up.

Anna Soubry

Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

1st September 2015

SCHEDULES

SCHEDULE 1

Article 4

AMENDMENTS TO SECONDARY LEGISLATION IN CONSEQUENCE OF SECTION 17 OF, AND PART 6 OF SCHEDULE 6 TO THE ACT, SUBJECT TO SAVINGS

The Insolvency Practitioners Tribunal (Conduct of Investigations) Rules 1986

- 1.** The Insolvency Practitioners Tribunal (Conduct of Investigations) Rules 1986(c) are revoked.

(a) S.I. 2005/524; relevant amending instruments are 2009/2748, 2009/3081, 2015/391.
(b) 1914 c. 47.
(c) S.I. 1986/952.

The Solicitors Recognised Bodies Order 1991

- 2.—(1) The Solicitors Recognised Bodies Order 1991(a) is amended as follows.
- (2) In Schedule 1, in respect of the Insolvency Act 1986 omit “and Schedule 7”.

The Limited Liability Partnership Regulations 2001

- 3.—(1) The Limited Liability Partnership Regulations 2001(b) are amended as follows.
- (2) In Schedule 3, omit the entry in respect of section 389 A.
- (3) Omit paragraph 9 of Part 2 of Schedule 6.

The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003

- 4.—(1) The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003(c) is amended as follows.
- (2) Omit article 3(1), (1A), (2), (3), (4) and (5).
- (3) Omit article 3(3A).
- (4) Omit article 4.

The Insolvency Practitioners Regulations 2005

- 5.—(1) The Insolvency Practitioners Regulations 2005 are amended as follows.
- (2) In regulation 2(1) for the meaning of insolvency practitioner substitute “a person who is authorised to act as an insolvency practitioner under section 390A of the Act”.
- (3) Omit regulation 4(2).
- (4) Omit regulations 5, 6, 7, 8, 8A and 9.
- (5) Omit regulation 11.
- (6) For regulation 12(3) substitute “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.”.
- (7) Omit regulation 14.
- (8) In regulation 15(1) omit paragraph (b).
- (9) Omit regulation 16.
- (10) In paragraph 9(2) of Schedule 2 omit sub-paragraph (b).
- (11) In paragraph 10(1) of Schedule 2 omit sub-paragraph (b).
- (12) In paragraph 13(2) of Schedule 2 omit sub-paragraph (b).

The Money Laundering Regulations 2007

6. In regulation 23(1) of the Money Laundering Regulations 2007(d) omit sub-paragraph (g).

(a) S.I. 1991/2684, amended by S.I. 2009/500; there are other amending instruments but none is relevant.
(b) S.I. 2001/1090; relevant amending instruments are S.I. 2004/355, 2005/1989.
(c) S.I. 2003/3363; relevant amending instruments are S.I. 2004/476, 2009/487 and 2009/3081.
(d) S.I. 2007/2157, to which there are amendments not relevant to this Order.

The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011

7. In Schedule 2 of the Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011(a) in respect of the entry for the Insolvency Act 1986 (c.45) omit “and Schedule 7”.

SCHEDULE 2

Article 5

**AMENDMENTS TO SECONDARY LEGISLATION IN
CONSEQUENCE OF SECTION 17 OF AND PART 6 OF SCHEDULE
6 TO THE ACT**

The Insolvent Partnerships Order 1994

1.—(1) The Insolvent Partnerships Order 1994(b) is amended as follows.

(2) In Part 1 of Schedule 1 in the modification of—

- (a) section 1(2) of the 1986 Act, omit “ or authorised to act as nominee,”;
- (b) section 2(5) of the 1986 Act omit “, or authorised to act as nominee,”;
- (c) section 4(2) of the 1986 Act omit “, or authorised to act as nominee,”; and
- (d) section 7(5) of the 1986 Act omit “or authorised to act as supervisor,”.

The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013

2. In Part 3 of Schedule 2 to the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013(c), after the entry for section 389 insert—

Section 390 (persons not qualified to act as insolvency practitioners)	This section is to be read as if for subsection (2) there were substituted— “(2) A person is not qualified to act at any time as an insolvency practitioner in relation to a relevant scheme unless that person would be qualified to act at that time as an insolvency practitioner in relation to a company.”.
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SCHEDULE 3

Article 6

**OTHER AMENDMENTS TO SECONDARY LEGISLATION IN
CONSEQUENCE OF SCHEDULE 6 TO THE ACT**

Deeds of Arrangement

3.—(1) The Deeds of Arrangement Fees Order 1984(d) is revoked.

(2) In the High Court and County Courts Jurisdiction Order 1991(e), omit article 2(6)(e).

(3) In Schedule 1 to the Solicitors’ Recognised Bodies Order 1991—

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- (a) S.I. 2011/2866, to which there are amendments not relevant to this Order.
 - (b) S.I. 1994/2421, to which there are amendments not relevant to this Order.
 - (c) S.I. 2013/1388.
 - (d) S.I. 1984/887, to which there are amendments not relevant to this Order.
 - (e) S.I. 1991/724, to which there are amendments not relevant to this Order.

- (a) in the table headed “Statutes Which Apply to Recognised Bodies”, omit the entry for the Deeds of Arrangement Act 1914; and
 - (b) in the table headed “Statutory Instruments Which Apply to Recognised Bodies”, omit the entry for the Deeds of Arrangement Rules 1925(a).
- (4) In regulation 47(2)(e) of the Landfill Tax Regulations 1996(b), omit “the Deeds of Arrangement Act 1914 or”.
- (5) In the High Court Enforcement Officers Regulations 2004(c), in regulation 5(2)(e)(iii), omit “a deed of arrangement under the Deeds of Arrangement Act 1914 or”.
- (6) In regulation 5 of the Insolvency Practitioners Regulations 2005, in the definition of “insolvency legislation” omit the words “the Deeds of Arrangement Act 1914 and”.
- (7) In the Pension Protection Fund (Entry Rules) Regulations 2005(d), omit regulation 6(2).
- (8) In the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008(e), omit regulation 4(j).
- (9) In the Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008(f), omit paragraph (j) of regulation 4.
- (10) In the Legal Services Act 2007 (Designation as a Licensing Authority) (No.2) Order 2011, in the table in Schedule 2, omit the entries for—
- (a) “Deeds of Arrangement Act 1914 (c. 47)”; and
 - (b) “Deeds of Arrangement Rules 1925 (S.I. 1925/795)”.
- (11) In the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011(g), omit regulation 6B(2)(c).
- (12) In the Care and Support (Cross-border Placements) (Business Failure Duties of Scottish Local Authorities) Regulations 2014(h), omit regulation 4(2)(c).

Company Directors Disqualification

4. In the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987(i), in rule 2(5) omit “made against a person who at the date of the application is acting as liquidator, administrator or administrative receiver”.

EXPLANATORY NOTE

(This note is not part of the Order)

References in this Note to provisions are, unless said to be otherwise, to provisions in this Order.

Articles 4 to 6 of and Schedules 1 to 3 of this Order bring into force amendments to secondary legislation in consequence of sections 17 of, and Schedule 6 to, the Deregulation Act 2015.

Article 7 is a transitional provision. The effect of which is that where an individual applies to the Secretary of State for authorisation to act as an insolvency practitioner before 1st October 2015 and authorisation is granted between 1st October 2015 and 30th September 2016, then the formula for the calculation of the fee which the individual is to pay in connection with the maintenance of that authorisation is £2400 multiplied by the number of days between authorisation and 30 September 2016 divided by 365.

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- (a) S.I. 1925/795.
 - (b) S.I. 1996/1527, to which there are amendments not relevant to this Order.
 - (c) S.I. 2004/400, to which there are amendments not relevant to this Order.
 - (d) S.I. 2005/590, to which there are amendments not relevant to this Order.
 - (e) S.I. 2008/386, to which there are amendments not relevant to this Order.
 - (f) S.I. 2008/2499 (W. 217), to which there are amendments not relevant to this Order.
 - (g) S.S.I. 2011/210, amended by regulation 2(c) of S.S.I. 2013/110; there are other amending instruments but none is relevant.
 - (h) S.I. 2014/2839.
 - (i) S.I. 1987/2023, amended by S.I. 2007/1906; there are other amending instruments but none is relevant.

Articles 8 and 9 save secondary legislation, between 1st October 2015 and 30th September 2016, in relation to individuals who apply to the Secretary of State for authorisation to act as an insolvency practitioner before 1st October 2015 or who hold such an authorisation before 1st October 2015. This includes provisions relating to:

- the operation of the Insolvency Practitioners Tribunal; and
- the requirement for insolvency practitioners authorised by the Secretary of State to submit returns to the Secretary of State containing certain information and the power for the Secretary of State to request someone so authorised to provide certain information. This information includes the number of cases in which the insolvency practitioner has acted recently and details relating to professional development.

The amendments in Schedule 2 are subject to no transitional or savings provisions in this Order.

The amendments in Schedule 3 are subject to the savings provision in article 10. Savings apply to a deed of arrangement registered under section 5 of the Deeds of Arrangement Act 1914 before 1st October 2015 if, immediately before that date, the estate of the debtor who executed the deed of arrangement has not been fully wound up.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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