STATUTORY RULES OF NORTHERN IRELAND

2009 No. 401

INSOLVENCY

INSOLVENCY PRACTITIONERS

The Provision of Services (Insolvency Practitioners) Regulations (Northern Ireland) 2009

Made - - - -	*4th December 2009*
Coming into operation	*28th December 2009*

The Department of Enterprise, Trade and Investment(**1**), being a Department designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to insolvency, makes the following Regulations in exercise of the powers conferred upon it by that section and by Articles 348A, 349, 351, 352 and 363 of the Insolvency (Northern Ireland) Order 1989(**4**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Provision of Services (Insolvency Practitioners) Regulations (Northern Ireland) 2009 and shall come into operation on 28th December 2009.

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(3) A reference in the Insolvency Practitioners Regulations (Northern Ireland) 2006(**6**) to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

(4) In the Insolvency Practitioners Regulations (Northern Ireland) 2006 "electronic communication" has the same meaning as in the Electronic Communications Act (NI) 2001(**7**)

(**1**) Formerly the Department of Economic Development, see the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)), Article 3(5)
(**2**) S.I. 2001/3495
(**3**) 1972 c.68, to which there are amendments not relevant to these Regulations.
(**4**) S.I. 1989/2405 (N.I. 19)
(**5**) 1954 c.33
(**6**) S.R. 2006 No. 33
(**7**) 2001 c.9

Amendments to the Insolvency (Northern Ireland) Order 1989

2.—(1) The Insolvency (Northern Ireland) Order 1989 shall be amended as provided by paragraphs (2) to (5).

(2) In Article 348A (authorisation of nominees and supervisors), in sub-paragraph (a) of paragraph (2), after "Department" insert "or of a body recognised for the purpose under section 389A(2)(a) of the Insolvency Act 1986(**8**)".

(3) In Article 349, in paragraph (2) (persons not qualified to act as insolvency practitioners), after sub-paragraph (b) insert—

"; or

(c) he holds an authorisation for a corresponding purpose granted by a competent authority in Great Britain under Section 393 of the Insolvency Act 1986".

(4) In Article 350, for paragraph (2) of (recognised professional bodies) substitute—

"(2) A body may be recognised if it regulates the practice of a profession and maintains and enforces rules for securing that such of its members as are permitted by or under the rules to act as insolvency practitioners—

(a) are fit and proper persons so to act; and

(b) meet acceptable requirements as to education, practical training and experience.".

(5) In Article 352 (grant, refusal and withdrawal of authorisation)—

(a) for paragraph (3) substitute—

"(3) An authorisation granted under this Article, if not previously withdrawn, continues in force for one year.

(3A) Where an authorisation is granted under this Article the competent authority shall, before its expiry (and without a further application made in accordance with Article 351), grant a further authorisation under this Article taking effect immediately after the expiry of the previous authorisation, unless it appears to the competent authority that the subject of the authorisation no longer complies with paragraph (2) (a) and (b).";

(b) in paragraph (4) for "so granted" substitute "granted under this Article"; and

(c) after paragraph (5) insert—

"(6) Where an authorisation granted under this Article is withdrawn—

(a) paragraph (3A) does not require a further authorisation to be granted, or

(b) if a further authorisation has already been granted at the time of the withdrawal, the further authorisation is also withdrawn.".

Amendment to the Insolvency Practitioners Regulations (Northern Ireland) 2006

3. The Insolvency Practitioners Regulations (Northern Ireland) 2006(**9**) are amended as set out in the Schedule.

Transitional provisions

4. These Regulations do not apply to an application for authorisation to act as an insolvency practitioner made or granted under Article 352 of the Insolvency (Northern Ireland) Order 1989 before these Regulations come into operation.

(**8**) 1986 c.45. Section 389A was inserted by the Insolvency Act 2000 (c.39), s 4(4)
(**9**) S.R. 2006 No. 33

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 4th December 2009.

L.S.

Michael J Bohill
A senior officer of the
Department of Enterprise, Trade and Investment

SCHEDULE

Regulation 3

Amendment to the Insolvency Practitioners Regulations (Northern Ireland) 2006

1. In this Schedule—

"the principal Regulations" mean the Insolvency Practitioners Regulations (Northern Ireland) 2006(**10**) and any reference to a numbered Part or Regulation is a reference to a Part or Regulation so numbered in the principal Regulations;

2. The principal Regulations are amended as set out in paragraphs 3 to 9.

Amendment to Regulation 7

3.—(1) Regulation 7 (requirements as to education and training–applicants who have never previously been authorised to act as insolvency practitioners) is amended as follows.

(2) In paragraph (3)(b) for "7000" substitute "2000".

Amendments to Regulation 8

4.—(1) Regulation 8 (requirements relating to education and training etc–applicants previously authorised to act as insolvency practitioners) is amended as follows.

(2) In paragraph (2)(a) for "500" substitute "450".

(3) After regulation 8 insert—

"**Requirements relating to education and training etc—further authorisation to act as insolvency practitioners**

8A.—(1) The requirements prescribed under Article 352(2)(b) of the Order in relation to further authorisation under Article 352(3A) are as set out in this Regulation.

(2) The individual shall—

(a) have acquired within the period in regulation 11(1A) 150 hours of any combination of the following types of experience—

(i) experience as an office-holder;

(ii) higher insolvency work experience;

(iii) regulatory work experience; or

(iv) advisory work experience; and

(b) have completed within the period in regulation 11(1A) at least 36 hours of continuing professional development of which 18 hours shall fall into the categories in regulation 8(3)(b)(i) to (v).

(3) In the first period after the grant of an authorisation an individual complies with—

(a) paragraph (2)(a) where the number of hours is 125; and

(b) paragraph (2)(b) where the number of hours are 30 and 15 respectively.".

Amendment to Regulation 10

5. Regulation 10 (maximum period of authorisation) is revoked.

(**10**) S.R. 2006 No. 33

Amendment to Regulation 11

6.—(1) Regulation 11 (returns by insolvency practitioners authorised by the Department) is amended as follows.

(2) In paragraph (1)—

(a) for "of 12 months ending on 31st December" substitute "in paragraph (1A)";

(b) In sub-paragraph (b), at the end, omit "and" and insert—

the following details of any continuing professional development activity undertaken during the period by the holder of the authorisation—

(i) the nature of the activity,

(ii) the date that the activity was undertaken,

(iii) the duration of the activity, and

(iv) the topics covered by the activity; and

(d) the number of hours of any experience of the types in regulation 8A(2)(a)(i) to (iv).

(1A) The period is the period of 12 months ending two months before the anniversary of the grant of the authorisation or the last further authorisation.".

(3) In paragraph (2) for "within one month of" substitute "no later than 6 weeks before".

Amendment to Regulation 12

7.—(1) Regulation 12 (The requirements for security for the proper performance of the functions of an insolvency practitioner etc.) is amended as follows.

(2) After paragraph (2) insert—

"(3) Where, in accordance with Article 349(2)(c) of the Order a person is qualified to act as an insolvency practitioner by virtue of an authorisation granted by a competent authority in Great Britain under Section 393 of the Insolvency Act 1986, this Part applies in relation to that person as if that authorisation had been granted pursuant to Article 352 of the Order.".

Amendments to Schedule 2

8.—(1) Schedule 2 (requirements for security and related matters) is amended as follows.

(2) In paragraph 1 (interpretation) after the definition of "insolvent's assets" insert—

""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.".

(3) After paragraph 2 insert—

"**Requirement for bond or professional liability insurance**

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

(a) a bond in a form approved by the Department 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.".

(4) In paragraph 3 (requirement for bonding–terms of the bond)—