

EXPLANATORY MEMORANDUM TO
The Insolvency Practitioners (Recognised Professional Bodies) (Amendment)
Order (Northern Ireland) 2017

2017 No. 4

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for the Economy ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 350(1) and 350N of the Insolvency (Northern Ireland) Order 1989 and is subject to the no Assembly resolution procedure.

2. Purpose

- 2.1. To revoke the Law Society's recognition under Article 350 of the Insolvency (Northern Ireland) Order 1989 as a body capable of authorising its members to act as insolvency practitioners and to make an amendment required as a result of the name of a second body recognised under Article 350 having been changed.

3. Background

- 3.1. It is an offence to act as insolvency practitioner unless authorised to do so by a professional body which is recognised under Article 350 of the Insolvency (Northern Ireland) Order 1989. The Department has power under Article 350 to make an Order designating suitable organisations as recognised professional bodies. ("RPBs").
- 3.2. The Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 (S.R. 1991 No. 301) was made under this power. Seven bodies are listed in the schedule to that Order as recognised for the purposes of Article 350 of the Insolvency (Northern Ireland) Order 1989. These include the Law Society and the Chartered Association of Certified Accountants.
- 3.3. Article 350 of the Insolvency (Northern Ireland) Order 1989 was substituted by section 14(4) of the Insolvency (Amendment) Act (Northern Ireland) 2016 ("the 2016 Act"). Section 14(7) of the 2016 Act provides that an order made under Article 350(1) of the Insolvency (Northern Ireland) Order 1989 before the substitution took effect continues in operation.
- 3.4. The Solicitors Regulation Authority which carries out regulatory functions on behalf of the Law Society wrote to the Department on 6 June 2016 asking to have the Law Society's designation under the Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 revoked.

- 3.5. No insolvency practitioners have ever been authorised by the Law Society in Northern Ireland. The society's status as an RPB has already been revoked in GB.
- 3.6. New Article 350N inserted into the Insolvency (Northern Ireland) Order 1989 by section 17(1) of the 2016 Act gives the Department power to make an Order revoking a professional body's recognition under Article 350 of the Insolvency (Northern Ireland) Order 1989 if it is satisfied that it is appropriate to do so in all the circumstances of the case. In the case of the Law Society the Department is satisfied that this test is met.
- 3.7. If the Department makes a revocation Order it is required under Article 350N(3) of the Insolvency (Northern Ireland) Order 1989 to publish a notice specifying the date from which the Order takes effect and the reasons for making it.
- 3.8. One of the other seven bodies listed in the Schedule to the Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 was known at the time that the Order was being made as the Chartered Association of Certified Accountants. This body has since changed its name to the Chartered Association of Certified Accountants.

4. Consultation

- 4.1. No consultation has been carried out as revocation of the Law Society's right to authorise its members to act as insolvency practitioners is being carried out at the request of the Society and there are currently no insolvency practitioners in Northern Ireland who are authorised by that Society.

5. Equality Impact

- 5.1. The effect of the making of this Statutory Rule will be to withdraw the Law Society's recognition as a professional body capable of authorising insolvency practitioners in Northern Ireland.
- 5.2. The Law Society is the membership body for solicitors in England and Wales. The Society has never authorised any of its members to act as insolvency practitioners in Northern Ireland. Withdrawal of its recognition to authorise insolvency practitioners in Northern Ireland will therefore have no impact on any of the section 75 groups, and accordingly an equality impact assessment was not considered necessary.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment was not carried out as there will be no financial impact on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

- 7.1. None exist

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The provisions of the Order are considered to be compliant with section 24 of the Northern Ireland Act 1998, including that they are compatible with

Community Law and Convention Rights as defined in the Human Rights Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

- 10.1. This Order corresponds to the Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order 2016 (S.I. 2016/403) made in GB for the purpose of revoking the Law Society's recognition under section 391 of the Insolvency Act 1986 as a professional body capable of authorising insolvency practitioners. The Law Society of Scotland's recognition under section 391 of the Insolvency Act 1986 as a professional body capable of authorising insolvency practitioners was revoked by the Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order 2015 (S.I. 2015/2067).
- 10.2. The Law Society of Scotland is not listed as a recognised professional body in the Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 applying in Northern Ireland.

11. Additional Information

- 11.1. The Order takes effect on 11th January 2017. The notice required by Article 350N(3) has been published on the Insolvency Service website and is available on <https://www.economy-ni.gov.uk/publications/notice-accordance-article-350n-3-insolvency-northern-ireland-order-1989>. It is also available in hard copy from the Insolvency Service, Department for the Economy, Fermanagh House, Ormeau Avenue, Belfast, BT 2 8NJ.