



## 2016 CHAPTER 2

### *Power to establish single regulator of insolvency practitioners*

#### **Power to establish single regulator of insolvency practitioners**

**21.—(1)** The Department may by regulations designate a body for the purposes of—

- (a) authorising persons to act as insolvency practitioners; and
- (b) regulating persons acting as such.

(2) The designated body may be either—

- (a) a body corporate established by the regulations; or
- (b) a body (whether a body corporate or an unincorporated association) already in existence when the regulations are made (an “existing body”).

(3) The regulations may, in particular, confer the following functions on the designated body—

- (a) establishing criteria for determining whether a person is a fit and proper person to act as an insolvency practitioner;
- (b) establishing the requirements as to education, practical training and experience which a person must meet in order to act as an insolvency practitioner;
- (c) establishing and maintaining a system for providing full authorisation or partial authorisation to persons who meet those criteria and requirements;
- (d) imposing technical standards for persons so authorised and enforcing compliance with those standards;
- (e) imposing professional and ethical standards for persons so authorised and enforcing compliance with those standards;

- (f) monitoring the performance and conduct of persons so authorised;
  - (g) investigating complaints made against, and other matters concerning the performance or conduct of, persons so authorised.
- (4) The regulations may require the designated body, in discharging regulatory functions, so far as is reasonably practicable, to act in a way—
- (a) which is compatible with the regulatory objectives; and
  - (b) which the body considers most appropriate for the purpose of meeting those objectives.
- (5) Provision made under subsection (3)(d) or (3)(e) for the enforcement of the standards concerned may include provision enabling the designated body to impose a financial penalty on a person who is or has been authorised to act as an insolvency practitioner.
- (6) The regulations may, in particular, include provision for the purpose of treating a person authorised to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350 of the Insolvency Order immediately before the regulations come into force as authorised to act as an insolvency practitioner by the body designated by the regulations after that time.
- (7) Expressions used in this section which are defined for the purposes of Part 12 of the Insolvency Order have the same meaning in this section as in that Part.
- (8) Regulations under this section shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.
- (9) Section 22 makes further provision about regulations under this section which designate an existing body.
- (10) Schedule 1 makes supplementary provision in relation to the designation of a body by regulations under this section.

### **Regulations under section 21: designation of existing body**

- 22.—**(1) The Department may make regulations under section 21 designating an existing body only if it appears to the Department that—
- (a) the body is able and willing to exercise the functions that would be conferred by the regulations; and
  - (b) the body has arrangements in place relating to the exercise of those functions which are such as to be likely to ensure that the conditions in subsection (2) are met.
- (2) The conditions are—
- (a) that the functions in question will be exercised effectively; and

- (b) where the regulations are to contain any requirements or other provisions prescribed under subsection (3), that those functions will be exercised in accordance with any such requirements or provisions.
- (3) Regulations which designate an existing body may contain such requirements or other provisions relating to the exercise of the functions by the designated body as appear to the Department to be appropriate.

**Power to make regulations**

**23.**—(1) Article 363 of the Insolvency Order (regulations for purposes of Part 12) is amended as follows.

- (2) The existing provision becomes paragraph (2) of that Article.
- (3) In that paragraph—
  - (a) after “generality of” insert “paragraph (1) or”;
  - (b) for “regulations may contain” substitute “regulations under this Article may contain”.
- (4) Before that paragraph insert—

“(1) The Department may make regulations for the purpose of giving effect to Part 12 of this Order.”.
- (5) After that paragraph insert—

“(3) In making regulations under this Article, the Department must have regard to the regulatory objectives (as defined by Article 350C(3)).”.

**Company arrangement or administration provision to apply to a credit union**

**24.** In Article 10(2) of the Insolvency (Northern Ireland) Order 2005 (societies to whom a company arrangement or administration provision may apply) at the end add “or the Credit Unions (Northern Ireland) Order 1985.”.

**Disqualification from office: duty to consult the Lord Chief Justice**

**25.** In Article 24(7) of the Insolvency (Northern Ireland) Order 2005, at the end add “; but any such order may only be made after consultation with the Lord Chief Justice where the appeal is to a specified court.”.