



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 10

INSOLVENCY

Regulation of insolvency practitioners: amendments to existing regime

140 Recognised professional bodies: revocation of recognition

(1) After section 391K of the Insolvency Act 1986 (inserted by section 139) insert—

“Revocation etc of recognition

391L Revocation of recognition at instigation of Secretary of State

- (1) An order under section 391(1) or (2) in relation to a recognised professional body may be revoked by the Secretary of State by order if the Secretary of State is satisfied that—
 - (a) an act or omission of the body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives, and
 - (b) it is appropriate in all the circumstances of the case to revoke the body’s recognition under section 391.
- (2) If the condition set out in subsection (3) is met, an order under section 391(1) in relation to a recognised professional body may be revoked by the Secretary of State by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist

members with partial authorisation only of the kind specified in the order (see section 390A(1)).

- (3) The condition is that the Secretary of State is satisfied—
 - (a) as mentioned in subsection (1)(a), and
 - (b) that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.
- (4) In this Part—
 - (a) an order under subsection (1) is referred to as a “revocation order”;
 - (b) an order under subsection (2) is referred to as a “partial revocation order”.
- (5) A revocation order or partial revocation order—
 - (a) has effect from such date as is specified in the order, and
 - (b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.
- (6) A partial revocation order has effect as if it were an order made under section 391(2).

391M Orders under section 391L: procedure

- (1) Before making a revocation order or partial revocation order in relation to a recognised professional body, the Secretary of State must give notice to the body—
 - (a) stating that the Secretary of State proposes to make the order and the terms of the proposed order,
 - (b) specifying the Secretary of State’s reasons for proposing to make the order, and
 - (c) specifying a period within which the body, members of the body or other persons likely to be affected by the proposal may make written representations with respect to it.
- (2) Where the Secretary of State gives a notice under subsection (1), the Secretary of State must publish the notice on the same day.
- (3) The period specified under subsection (1)(c)—
 - (a) must begin with the date on which the notice is given to the body, and
 - (b) must not be less than 28 days.
- (4) On the expiry of that period, the Secretary of State must decide whether to make the revocation order or (as the case may be) partial revocation order in relation to the body.
- (5) The Secretary of State must give notice of the decision to the body.
- (6) Where the Secretary of State decides to make the order, the notice under subsection (5) must specify—
 - (a) when the order is to take effect, and

(b) the Secretary of State’s reasons for making the order.

(7) A notice under subsection (5) must be published; and it must (if possible) be published in the same manner as that in which the notice under subsection (1) was published.

391N Revocation of recognition at request of body

(1) An order under section 391(1) or (2) in relation to a recognised professional body may be revoked by the Secretary of State by order if—

(a) the body has requested that an order be made under this subsection, and

(b) the Secretary of State is satisfied that it is appropriate in all the circumstances of the case to revoke the body’s recognition under section 391.

(2) An order under section 391(1) in relation to a recognised professional body may be revoked by the Secretary of State by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see section 390A(1)) if—

(a) the body has requested that an order be made under this subsection, and

(b) the Secretary of State is satisfied that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(3) Where the Secretary of State decides to make an order under this section the Secretary of State must publish a notice specifying—

(a) when the order is to take effect, and

(b) the Secretary of State’s reasons for making the order.

(4) An order under this section—

(a) has effect from such date as is specified in the order, and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(5) An order under subsection (2) has effect as if it were an order made under section 391(2).”

(2) In section 415A of the Insolvency Act 1986 (fees orders: general), after subsection (4) insert—

“(5) Section 391M applies for the purposes of an order under subsection (1)(b) as it applies for the purposes of a revocation order made under section 391L.”