

These notes refer to the Insolvency (Amendment) Act (Northern Ireland) 2016 (c.2) which received Royal Assent on 29 January 2016

Insolvency (Amendment) Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Power to establish single regulator of insolvency practitioners

Section 21: Power to establish single regulator of insolvency practitioners

This section allows the Department, by regulations made by the affirmative resolution procedure, to designate a body for the purposes of authorising and regulating insolvency practitioners. The body may be a new body set up by regulation, or it may be an existing body. The power to move to a single regulator will only be used if the changes proposed by sections 145 to 20 do not succeed in improving confidence in the regulatory regime for insolvency practitioners.

The section sets out the functions that the regulations may confer on the designated body and include:

- i. setting out the criteria for assessing whether a person is fit and proper to act as an insolvency practitioner, including the requirements as to education, practical experience and training they must meet;
- ii. setting out technical standards for insolvency practitioners and enforcing compliance with those standards; and
- iii. investigating complaints about insolvency practitioners.

The section allows the regulations to require that the designated body, in discharging regulatory functions, acts in a way which is compatible with the regulatory objectives (as introduced by section 15 of this Act).

It introduces Schedule 1 which makes supplementary provisions in relation to the designation of a body by regulations. For example, how many members the body should have; appointing the chair of the body; and the setting of fees.

Section 22: Regulations under section 21: designation of existing body

This section sets out that the Department may only make regulations designating an existing body as the single regulator if the body is able and willing and it has arrangements in place for its functions to be exercised effectively. It sets out in

what circumstances an existing body may become the single regulator and what the Department must do to make this designation.

Section 23: Power to make regulations

Section 23 amends Article 363 of the Insolvency Order to give the Department power to make regulations to give effect to Part 12 of that Order.

Section 24: Company arrangement or administration provision to apply to a credit union

Section 24 amends Article 10(2) of the [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005 No. 1455 \(NI10\)\)](#) to make it possible for the Department to make orders enabling societies registered under the Credit Unions (Northern Ireland) Order 1985 as well as societies registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 to enter a company arrangement or administration.

Section 25: Disqualification from office: duty to consult the Lord Chief Justice

Section 17 amends paragraph (7) of Article 24 of the Insolvency (Northern Ireland) Order 2005 to create a requirement for the Lord Chief Justice to be consulted about the making of orders creating a right of appeal to a court in respect of discretionary decisions to disqualify bankrupts from offices or positions.