
STATUTORY RULES OF NORTHERN IRELAND

2021 No. 174

**The Administration (Restrictions on Disposal etc. to
Connected Persons) Regulations (Northern Ireland) 2021**

PART 3

The Evaluator

Requirements for acting as evaluator

- 10.** For the purposes of these Regulations an evaluator is an individual who—
- (a) is satisfied that their relevant knowledge and experience is sufficient for the purposes of making a qualifying report,
 - (b) meets the—
 - (i) requirement as to insurance specified in regulation 11, and
 - (ii) requirement as to independence specified in regulation 12, and
 - (c) is not excluded from acting as an evaluator by virtue of regulation 13.

The requirement as to insurance

11.—(1) An individual meets the requirement as to insurance if there is in force professional indemnity insurance in respect of that individual.

(2) For the purposes of this regulation “professional indemnity insurance” means insurance taken out by, or on behalf of, an individual in respect of potential liabilities to the administrator, the connected person, creditors or any other person, as a result of, or arising from, any matter stated by the individual in a report made by them for the purpose of satisfying the condition in regulation 3(1)(b).

Requirement as to independence

- 12.—(1)** An individual meets the requirement as to independence unless they—
- (a) are connected⁽¹⁾ with the company,
 - (b) are an associate⁽²⁾ of the connected person or connected with the connected person,
 - (c) know or have reason to believe that they have a conflict of interest with respect to the substantial disposal, or
 - (d) have, at any time during the period of 12 months ending with the date on which a report is made by that individual for the purpose of satisfying the condition in regulation 3(1)(b) provided advice to, and in respect of, the company or a connected person in relation to the company—

(1) “Connected” (apart from where it is used in the expression “connected person”) is defined in Article 7 of the Order.

(2) “Associate” is defined in Article 4 of the Order.

- (i) in connection with, or in anticipation of, the commencement of an insolvency procedure under Parts 1A to 6 of the Order, or
- (ii) in relation to corporate rescue or restructuring.

(2) In this regulation “conflict of interest” means a financial or other interest which is likely to affect prejudicially the independence of the individual in providing a report made for the purpose of satisfying the condition in regulation 3(1)(b).

(3) Nothing in this regulation limits the scope of an individual’s obligation to comply with any professional or regulatory requirements to which that individual is subject.

Exclusion from providing the report

13. An individual is excluded from acting as an evaluator if—

- (a) the individual is—
 - (i) the administrator,
 - (ii) an associate of the administrator, or
 - (iii) connected with a company with which the administrator is connected,
- (b) the individual has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom or any other jurisdiction and the conviction is not a spent conviction,
- (c) the individual has at any time made a composition or arrangement with, or granted a trust deed for, the individual’s creditors unless the individual has been discharged in respect of it,
- (d) the individual has at any time been made bankrupt under the Order, the Insolvency Act 1986⁽³⁾, the Bankruptcy (Scotland) Act 1985⁽⁴⁾, or the Bankruptcy (Scotland) Act 2016⁽⁵⁾ or sequestration of the individual’s estate has been awarded and in either case—
 - (i) the individual has not been discharged, or
 - (ii) the individual has been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under the Order, the Insolvency Act 1986, the Bankruptcy (Scotland) Act 1985, or the Bankruptcy (Scotland) Act 2016, unless that order has ceased to have effect or has been annulled,
- (e) a moratorium period under a debt relief order under the Order or the Insolvency Act 1986 applies in relation to the individual,
- (f) a debt relief restrictions order under the Order or the Insolvency Act 1986 is in force in respect of the individual,
- (g) the individual is subject to—
 - (i) a disqualification order under Article 3 of the Company Directors Disqualification (Northern Ireland) Order 2002⁽⁶⁾,
 - (ii) a disqualification undertaking under Article 4 of that Order,

⁽³⁾ 1986 c. 45.

⁽⁴⁾ 1985 c.66, repealed by the Bankruptcy (Scotland) Act 2016 (2016 asp 21).

⁽⁵⁾ 2016 asp 21.

⁽⁶⁾ S.I. 2002/3150 (N.I. 4) Article 3 was amended by the Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454 (N.I. 9)). Articles 3 and 4 were amended by the Small Business, Enterprise and Employment Act 2015 (c. 26).

- (iii) a disqualification order under section 1 of the Company Directors Disqualification Act 1986(7), or
- (iv) a disqualification undertaking under section 1A of that Act,
- (h) The individual is subject to an order under Article 86(1) of the Judgments Enforcement (Northern Ireland) Order 1981(8) (failure to pay under administration order),
- (i) the individual has at any time been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which the individual was responsible or to which the individual was privy, or which the individual by the individual's conduct contributed to or facilitated.
- (j) the individual is a patient within the meaning of section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003(9) or has had a guardian appointed under the Adults with Incapacity (Scotland) Act 2000(10),
- (k) the individual lacks capacity, within the meaning of section 306 of the Mental Capacity Act (Northern Ireland) 2016(11), to provide the report, or
- (l) the individual has at any time been subject to any measures in another jurisdiction equivalent to those set out in sub-paragraphs (d) to (i) above.

(7) 1986 c. 46. Section 1 was amended by the Insolvency Act 2000 (c.39), the Enterprise Act 2002 (c.40) and the Small Business, Enterprise and Employment Act 2015 (c. 26). Section 1A was inserted by the Insolvency Act 2000 (c.39) and amended by the Small Business, Enterprise and Employment Act 2015.

(8) 1981 No. 226 (N.I. 6).

(9) 2003 asp 13. There are amending instruments but none is relevant.

(10) 2000 asp 4.

(11) 2016 c. 18 (N.I.).