

# DEREGULATION ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 6: Insolvency and company law*

#### **Part 6: Authorisation of insolvency practitioners**

#### **Repeal of provision for authorisation of nominees and supervisors in relation to voluntary arrangements**

592. *Paragraphs 18 and 19* repeal sections 389(1A) and 389A of the Insolvency Act 1986. These provisions allow individuals to be authorised to act solely as nominees or supervisors in voluntary arrangements. No body has ever been recognised for the purpose of authorising such persons and therefore these provisions have never been used. The introduction of a regime for the partial authorisation of insolvency practitioners contained in section 17 is an evolution of the idea embodied in sections 389(1A) and 389A and therefore these provisions are no longer required.
593. *Paragraph 20* makes amendments to primary legislation that are consequential on the repeals made by paragraphs 18 and 19.

#### **Repeal of provision for authorisation of insolvency practitioners to be granted by competent authority**

594. *Paragraph 21* repeals sections 392 to 398 of, and Schedule 7 to, the Insolvency Act 1986 which provide for a competent authority to grant, refuse and withdraw authorisation to act as an insolvency practitioner. As no other competent authority has been designated, the Secretary of State is currently the only competent authority. The effect of the repeal will be that the Secretary of State will no longer be able to authorise individuals to act as an insolvency practitioner. Individuals will only be able to obtain authorisation from one of a number of professional bodies recognised by the Secretary of State for that purpose. The vast majority of insolvency practitioners are already authorised by one of these bodies. The changes will reduce inconsistency of regulation by ensuring that all insolvency practitioners are authorised by one of the recognised professional bodies. The repeal of the provisions also removes a perceived conflict of interest with the Secretary of State's role as an oversight regulator of the professional bodies.
595. *Paragraph 22* makes a number of amendments to primary legislation that are consequential to the repeals made by paragraph 21. These amendments include removal of references to the Insolvency Practitioners Tribunal. The Insolvency Practitioners Tribunal exists only to consider objections to a competent authority's decision to refuse an application for authorisation or withdraw a person's authorisation to act as an insolvency practitioner. Consequently, the Insolvency Practitioners Tribunal will become redundant once the repeals made by paragraph 21 take full effect.
596. *Paragraph 23* is a transitional and savings provision for two categories of individuals: those who are authorised by the Secretary of State to act as an insolvency practitioner

*These notes refer to the Deregulation Act 2015 (c.20)  
which received Royal Assent on 26 March 2015*

at the date the repeals made by paragraph 21 take effect; and those who have applied to the Secretary of State for authorisation by that date but whose application has not been dealt with. Those who are already authorised will continue to be authorised during the transitional period. Those who apply to the Secretary of State for authorisation before the repeals made by paragraph 21 take effect will have their applications determined in accordance with the existing provisions.

597. The main amendments made by Part 6 of the Schedule form part of the law of England and Wales and Scotland, in line with the enactments that they amend. Part 6 will come into force on a day to be appointed by the Secretary of State in a commencement order.