

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: INSOLVENCY

Regulation of insolvency practitioners: amendments to existing regime

Section 138: Regulatory objectives

779. This section inserts new sections 391B and 391C into the Insolvency Act 1986.
780. These new sections define the meaning of regulatory functions and regulatory objectives which will apply to RPBs. At present, these do not exist in law.
781. The introduction of regulatory objectives will provide RPBs with a framework within which to carry out their activities. Regulatory objectives are intended to encourage consistency of approach, and to provide a reference point for discussions between IPs and RPBs, and between RPBs and the Secretary of State “oversight” regulator.
782. New section 391B sets out that RPBs must act and carry out their functions in a way that is compatible with the regulatory objectives.
783. The regulatory objectives are set out in new section 391C and are intended to ensure that:
- i. the RPBs have a system of regulating IPs that:
 - a. delivers fair treatment for persons affected by an IPs’ acts and omissions;
 - b. reflects the regulatory principles: that the RPB’s regulatory activities are transparent, accountable, proportionate, consistent and targeted; and
 - c. ensures consistent outcomes;
 - ii. the RPBs are encouraging an independent and competitive IP profession, whose members deliver high quality services at a fair and reasonable cost, act with transparency and integrity and consider the interests of creditors in the case;
 - iii. IPs seek to maximise returns to creditors and are prompt in making those returns; and
 - iv. the public interest is protected and promoted during the insolvency process.