STATUTORY INSTRUMENTS

2024 No. 1090

INSOLVENCY

The Insolvency Practitioners (Amendment and Transitional Provisions) Regulations 2024

Made - - - -	*30th October 2024*
Laid before Parliament	*4th November 2024*
Coming into force - -	*1st December 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 390(3), 419(1), 419(2)(f), and 419(4) of the Insolvency Act 1986(**a**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Insolvency Practitioners (Amendment and Transitional Provisions) Regulations 2024 and come into force on 1st December 2024.

(2) These Regulations extend to Great Britain.

Amendment of the Insolvency Practitioners Regulations 2005

2.—(1) Schedule 2 (requirements for security or caution and related matters) to the Insolvency Practitioners Regulations 2005(**b**) is amended as follows

(2) In paragraph 1 (interpretation), in the appropriate places, insert the following definitions—

""relevant losses" means the losses referred to in paragraph 3(1)(b);

"SPS indemnity period" has the meaning given in paragraph 3(3)(c)".

(3) In paragraph 3(1)(c), for "paragraphs 4 to 8" substitute "paragraphs 4 to 8ZD".

(4) In paragraph 3(2), for paragraph (a) substitute—

"(a) that claims in respect of relevant losses will be paid up to an aggregate maximum sum for each case where the insolvency practitioner acts ("the specific penalty sum"), together with interest on relevant losses calculated at a rate above the Sterling Overnight Index Average;".

(5) In paragraph 3(2), for paragraph (b) substitute—

"(b) that claims in respect of relevant losses, together with interest, will be paid out of a further sum of £750,000 ("the general penalty sum") if—

(i) a specific penalty sum is not in force in relation to a case, or

(**a**) 1986 c. 45.
(**b**) S.I. 2005/524, amended by S.I. 2009/3081; there are other amending instruments but none are relevant.

(ii) any amounts payable under a specific penalty sum are insufficient to meet all claims arising out of a case;".

(6) In paragraph 3(2)(e), for "losses of the kind mentioned in sub-paragraph (1)" substitute "relevant losses".

(7) In paragraph 3(2), after paragraph (e), insert—

"(f) for the payment of the following costs and expenses reasonably incurred or charged by the successor insolvency practitioner—

(i) the costs and expenses of investigating the suspected fraud or dishonesty;

(ii) the costs and expenses of making a claim under the bond, including costs incurred in providing documents or evidence or responding to requests for further information;

(iii) the costs and expenses of obtaining expert advice (including legal advice) in relation to a claim or potential claim under the bond;

(iv) the costs and expenses of administering the insolvent estate, which duplicate costs incurred or charged by an insolvency practitioner before the successor insolvency practitioner's appointment to act in the relevant case.".

(8) In paragraph 3(3), omit the "and" after paragraph (a).

(9) In paragraph 3(3)(b), at the end insert, ", provided the time limit satisfies the requirements of paragraph 8ZA (minimum run-off period); and".

(10) In paragraph 3(3), after paragraph (b), insert—

"(c) for a limit on the surety or cautioner's liability under the specific penalty sum by reference to a specified period of time ("the SPS indemnity period") during which the relevant losses may arise following the insolvency practitioner's appointment to act in a case, subject to paragraphs 8ZC (minimum SPS indemnity period) and 8ZD (notification of expiry).".

(11) After paragraph 8, insert—

"Minimum run-off period

8ZA.—(1) The terms of the bond must provide a minimum period of two years during which a claim may be made in respect of relevant losses in a case.

(2) This period must begin with the date on which the insolvency practitioner is released or discharged in that case.

(3) The reference to "released or discharged in that case" includes the insolvency practitioner being released or discharged from office in a subsequent capacity in that case.

(4) Where the insolvency practitioner holds office in a subsequent capacity in that case, the period must begin with the date of release or discharge from that office.

Interest period

8ZB. The interest referred to in paragraph 3(2)(a) is calculated from the date of the relevant loss to the date of payment of the claim for that loss.

Minimum SPS indemnity period

8ZC.—(1) The length of any SPS indemnity period must be no less than 6 years beginning with the date of the insolvency practitioner's appointment to act in a case,

provided the SPS indemnity period can be extended for further periods with the consent of the surety or cautioner.

(2) Where the surety or cautioner is asked to give its consent, such consent must not be unreasonably withheld, but may be given subject to reasonable conditions, including payment of an additional premium.

Notification of expiry

8ZD.—(1) The surety or cautioner must deliver a notice to the insolvency practitioner and their authorising body no less than 60 days before the date on which any security or caution under a specific penalty sum is due to expire or otherwise cease to have effect for a reason other than the insolvency practitioner's release or discharge in a case.

(2) The notice must be in writing or in electronic form and contain the following information:

(a) the date the specific penalty sum is due to expire or otherwise cease to have effect;

(b) whether the surety or cautioner is willing to agree to an extension or renewal of the specific penalty sum; and

(c) details of any conditions attached to the extension or renewal, such as the payment of an additional premium.

(3) The specific penalty sum will continue in force until such date as the surety or cautioner has complied with this paragraph, unless otherwise agreed by the parties to the bond.".

Transitional and savings provisions

3.—(1) Subject to paragraphs (2) to (3), the amendments made by these Regulations do not apply to a bond issued by the surety or cautioner before 1 January 2026 as it relates to a case in respect of which an insolvency practitioner was appointed before 1 January 2026.

(2) Where the Secretary of State determines an application for approval of a form of a bond during the transitional period, the Secretary of State may treat the form of bond as complying with paragraph 3 of Schedule 2 to the Insolvency Practitioners Regulations 2005 if the bond complies with the Insolvency Practitioners Regulations 2005—

(a) as those Regulations had effect immediately before 1st December 2024, or

(b) with the amendments made by regulation 2.

(3) In this regulation—

(a) "appointed"includes appointment in a subsequent capacity if the insolvency practitioner was appointed in an initial capacity in that case before 1 January 2026.

(b) "transitional period"means the period beginning with 1st December 2024 and ending with 31 December 2025.

Justin Madders
Parliamentary Under-Secretary of State
Department for Business and Trade

30th October 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 2 to the Insolvency Practitioners Regulations 2005 ("the 2005 Regulations"), subject to transitional and saving provisions in regulation 3. Schedule 2 to the 2005 Regulations sets out requirements relating to the form of bond which an insolvency practitioner must keep in force whilst acting in respect of an insolvent. Claims may be made against such a bond in the event of losses caused or facilitated by the fraud or dishonesty of the insolvency practitioner.

Regulation 2(4) substitutes paragraph 3(2)(a) of Schedule 2 to the 2005 Regulations to require interest to be paid on losses caused or facilitated by the fraud or dishonesty of the insolvency practitioner. The rate of interest must be a rate above the Sterling Overnight Index Average (known as SONIA).

Regulation 2(5) substitutes paragraph 3(2)(b) of Schedule 2 to the 2005 Regulations to:

- increase the general penalty sum from £250,000 to £750,000;
- extend the availability of the general penalty sum to cases where a specific penalty sum is not available.

Regulation 2(7) inserts a new paragraph (f) in paragraph 3(2) of Schedule 2 to the 2005 Regulations, which requires the bond to provide for payment of the following reasonable costs of the successor insolvency practitioner:

- costs of investigating the fraud or dishonesty;
- costs of making a claim under the bond;
- costs of obtaining expert advice;
- duplicate costs of administering the insolvent estate.

Regulation 2(9) (which amends paragraph 3(3)(b) of Schedule 2 to the 2005 Regulations), together with the new paragraph 8ZA (which regulation 2(11) inserts into Schedule 2 to the 2005 Regulations), set a minimum run-off period of 2 years during which a claim may be made under the bond.

Regulation 2(10) (which inserts a new paragraph (c) into paragraph 3(3) of Schedule 2 to the 2005 Regulations), together with the new paragraph 8ZC (which regulation 2(11) inserts into Schedule 2 to the 2005 Regulations), make provision about minimum specific penalty sum indemnity periods. Where a bond limits the surety or cautioner's liability under the specific penalty sum by reference to a maximum period during which any losses must have arisen, this period must not be shorter than 6 years from the date of the insolvency practitioner's appointment in a case and must be extendable.

Regulation 2(11) (which inserts a new paragraph 8ZD into Schedule 2 to the 2005 Regulations) makes provision about notifications which the surety or cautioner must give to the authorising body and the insolvency practitioner before a specific penalty sum expires (or otherwise ceases to have effect).

Regulation 3 sets out transitional and saving provisions for the changes made by these Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.

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