EXPLANATORY MEMORANDUM TO

The Insolvency Practitioners (Amendment) Regulations (Northern Ireland) 2025

S.R. 2025 No. 177

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for the Economy ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 349(3), 363(1) and (2)(f) of the Insolvency (Northern Ireland) Order 1989, and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the regulations is to amend existing minimum requirements for insolvency practitioner bonding, which is a form of security to protect creditors from losses caused by the fraud or dishonesty of insolvency practitioners during the course of their duties when appointed to an insolvency case (known as acting as an office-holder). The rule updates the monetary and other thresholds relating to bonding cover, including clarifying what the bond should cover. The bonding framework protects and benefits creditors through pay-outs where a bond claim is made, and this rule modernises that framework.

3. Background

3.1. The Insolvency Practitioners Regulations (Northern Ireland) 2006 ("2006 Regulations"), sets out minimum requirements for insolvency practitioner bonding, which is a form of security to protect creditors from losses caused by the fraud or dishonesty of insolvency practitioners during the course of their duties when appointed to an insolvency case (known as acting as an office-holder). The bond makes the bond provider jointly liable with the insolvency practitioner for any such losses.

3.2. The propose of this SR is to enhance protection for creditors by modernising the bonding framework and providing for an increase in the minimum level of cover which has to be provided.

3.3. Bonding comprises two parts; a Specific Penalty Sum (SPS) which provides separate cover for each of an insolvency practitioner's cases and a General Penalty Sum (GPS) which currently provides general cover for any cases where the SPS cover is insufficient.

3.4. The key changes which the SR will make are: that it will increase the general penalty sum from £250,000 to £750,000; it will provide for interest to be payable, at a rate above the Sterling Overnight Index Average (known as SONIA), on claims under the SPS and GPS; it will provide that the SPS must provide cover for a minimum of 6 years after the date on which the insolvency practitioner is appointed to act in a case; and it will provide for a minimum run-off period of 2 years following an insolvency

practitioner's release or discharge, during which a claim may be made under the bond.

3.5. In addition to increasing the minimum level of financial cover which the GPS must provide, the SR will provide that the GPS will have to cover cases for which no SPS cover has been obtained, as well as ones in which the SPS cover is insufficient. It will also set out additional requirements for what a bond should cover and will place bond providers under a requirement to give a minimum of 60 days' notice to the insolvency practitioner and their authorising body if the cover provided by a specific penalty sum is due to expire.

4. Consultation

4.1. A consultation on the policy was carried out in GB prior to the corresponding regulations for GB being made, including with the Recognised Professional Bodies responsible for authorising insolvency practitioners, which operate in both GB and NI.

4.2. Responses to the bonding proposals were overwhelmingly positive, with 98% of respondents in favour of increasing the minimum requirements for bonds; and that the increase to £750,000 would provide adequate protection for the majority of cases without being unduly costly for individual insolvency practitioners.

5. Equality Impact

5.1. The issue of equality was considered. It was concluded that formal equality screening was not necessary as these regulations do not have any differential impact on any of the section 75 groups.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been prepared as there is no impact on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

7.1. There will be no cost to the public purse.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Regulations are not incompatible with any of the Convention rights, do not discriminate against a person or class of person on the grounds of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The Regulations replicate the Insolvency Practitioners (Amendment andTransitional Provisions) Regulations 2024 (S.I. 2024 No. 1090).

11. Additional Information

11.1. Not applicable.