STATUTORY INSTRUMENTS

1986 No. 951

INSOLVENCY PRACTITIONERS

The Insolvency Practitioners (Authorisation by Relevant Authority) Regulations 1986

Made - - -	*5th June* 1986
Laid before Parliament	*10th June* 1986
Coming into Force -	*1st July* 1986

The Secretary of State, in the exercise of the powers conferred on him by sections 4, 5 and 10 of the Insolvency Act 1985(**a**), hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Insolvency Practitioners (Authorisation by Relevant Authority) Regulations 1986 and shall come into force on 1st July 1986.

(2) In these Regulations:—

"Act" means the Insolvency Act 1985;

"application" means an application made by an individual to the relevant authority for authorisation under section 5 of the Act, to act as an insolvency practitioner;

"commencement date" means the date on which section 1 of the Act comes into force;

"insolvency practitioner" shall be construed in accordance with section 1 of the Act;

"the insolvency legislation" means the following enactments:—

the Act;

Parts XVIII to XXI of the Companies Act 1985(**b**);

Part VII of the Employment Protection (Consolidation) Act 1978(**c**);

the Bankruptcy Act 1914(**d**);

the Deeds of Arrangement Act 1914(**e**);

the Bankruptcy (Scotland) Act 1985(**f**);

(**a**) 1985 c.65. (**b**) 1985 c.6. (**c**) 1978 c.44.
(**d**) 4 & 5 Geo 5 c.59. (**e**) 4 & 5 Geo 5 c.47. (**f**) 1985 c.66.

the Bankruptcy (Scotland) Act 1913(**a**); and

the provisions of the enactments repealed by Schedule 1 to the Companies Consolidation (Consequential Provisions) Act 1985(**b**) relating to insolvency;

"business" includes the carrying on of any trade profession or vocation and the discharge of the functions relating to any office or employment;

"insolvency practice" means the carrying on of the business of acting as an insolvency practitioner or in a corresponding capacity under the law of any country or territory outside Great Britain, and for this purpose acting as an insolvency practitioner shall include acting as a trustee in sequestration or a judicial factor on the bankrupt estate of a deceased person;

"office-holder" means a person who acts or has acted as an insolvency practitioner, a trustee in sequestration, or a judicial factor on the bankrupt estate of a deceased person or in a corresponding capacity under the law of any country or territory outside Great Britain;

"insolvency work experience" means engagement in work related to the administration of the estates of persons in respect of which an office-holder has been appointed;

"higher insolvency work experience" means engagement in work related to the administration of the estates of persons in respect of which an office-holder has been appointed where the work involves the management or supervision of the conduct of a case on behalf of that office-holder;

"associate" shall be construed in accordance with section 233 of the Act;

"Crown employment" shall be construed in accordance with section 12(2) of the Employment Protection Act 1975(**c**).

Application of these regulations

2. These Regulations apply in relation to applications made to the relevant authority before the commencement date.

Matters for determining whether an applicant is fit and proper

3. Without prejudice to the generality of section 5(2)(*a*) or (4)(*a*) of the Act, in determining whether an applicant is a fit and proper person to act as an insolvency practitioner the matters to be taken into account shall include:—

(*a*) whether the applicant has committed any offence involving fraud or other dishonesty or violence;

(*b*) whether the applicant has contravened any provision in any enactment contained in the insolvency legislation or in subordinate legislation made under any such enactment or any provision of the law of a country or territory outside Great Britain which corresponds to such legislation;

(**a**) 3 & 4 Geo 5 c.20. (**b**) 1985 c.9. (**c**) 1975 c.71.

(*c*) whether the applicant has engaged in any practices in the course of carrying on business appearing to be deceitful or oppressive or otherwise unfair or improper (whether unlawful or not) or which otherwise cast doubt upon his probity or competence for discharging the duties of an insolvency practitioner;

(*d*) whether in respect of any insolvency practice carried on by the applicant at the date of or at any time prior to the making of the application there were established adequate systems of control of the practice and adequate records relating to the practice, including accounting records, and whether such systems of control and records have been or were maintained on an adequate basis;

(*e*) whether the insolvency practice of the applicant is, has been or, where the applicant is not yet carrying on such a practice, will be, carried on with the independence, integrity and the professional skills appropriate to the range and scale of the practice and the proper performance of the duties of an insolvency practitioner.

Education

4.—(1) The requirements in respect of education which are prescribed for the purposes of section 5(2)(*b*) of the Act are that the applicant possesses one or more of the academic qualifications listed in Part 1 of the Schedule to these Regulations or such other academic or professional qualifications as shall indicate the attainment of an equivalent level of education to that attested by that qualification or, as the case may be, those qualifications.

(2) The provisions of this Regulation apply only in relation to any applicant who shall not have attained the age of 35 on or before 15th December 1986.

Practical training and experience

5.—(1) The requirements with respect to practical training and experience which are prescribed for the purposes of section 5(2)(*b*) of the Act are either that:—

(*a*) the applicant has been appointed an office-holder in not less than 30 cases within the period of 10 years immediately prior to the making of his application; or

(*b*) the applicant:—

(i) was first employed by a person carrying on insolvency practice in that practice not later than 10 years prior to the making of his application; and

(ii) within the period of 10 years referred to in sub-paragraph (*a*) above has acquired not less than 7,000 hours of insolvency work experience whether in the employment of a person carrying on an insolvency practice or as an office-holder; and

(iii) satisfies the conditions set out in sub-paragraph (*c*) below.

(*c*) The condition referred to in sub-paragraph (1)(*b*)(iii) is that the applicant must show he satisfies one of the following three requirements:—

(i) he has been appointed an office-holder in at least 5 cases within the period of 5 years immediately prior to the making of his application; or

(ii) he has acquired 1,000 hours or more of higher insolvency work experience within such period; or

(iii) he can show that within such period he has achieved one of the following combinations of appointments as an office-holder and hours acquired of higher insolvency work experience:—

(*a*) not less than 4 cases and 200 hours

(*b*) not less than 3 cases and 400 hours

(*c*) not less than 2 cases and 600 hours

(*d*) not less than 1 case and 800 hours.

(2) In determining whether an applicant falls within paragraph (1) above:—

(*a*) no account shall be taken of any case where:—

(i) he was appointed to the office of receiver or to a corresponding office under the law of a country or territory outside Great Britain by or on behalf of a creditor who at the time of appointment was an associate of the applicant; or

(ii) in a members' voluntary winding up or in a corresponding procedure under the laws of a country or territory outside Great Britain, he was appointed liquidator at a general meeting where his associates were entitled to exercise or control the exercise of one third or more of the voting power at that general meeting;

(*b*) where the applicant has been an office-holder in relation to:—

(i) two or more companies which were associates at the time of appointment;

(ii) two or more individuals who were carrying on business in partnership with each other at the time of appointment;

he shall be treated as having held office in only one case in respect of all offices held in relation to the companies which were associates or in respect of all offices held in relation to the individuals who were in partnership as the case may be.

(3) Where in order to satisfy all or any of the requirements set out in paragraph (1) above an applicant relies on appointment as an office-holder or the acquisition of insolvency work experience or higher insolvency work experience in relation to cases under the laws of a country or territory outside Great Britain he shall demonstrate that he has no less than 1,400 hours of insolvency work experience or higher insolvency work experience in cases under the law of England and Wales or Scotland acquired within the period of the two years immediately prior to the making of his application and that where appropriate he has a good command of the English language.

(4) For the purposes of sub-paragraph (1)(*b*) above employment by a person carrying on insolvency practice includes Crown employment in the Insolvency sevice of the Department of Trade and Industry.

(5) For the purposes of paragraph (1) above a person carrying on insolvency practice includes a firm or partnership.

Fees

6. The fee to accompany any application to which these Regulations apply shall be £200.

Maximum period of authorisation

7. No authorisation granted pursuant to an application to which these Regulations apply shall continue in force for a period of more than 3 years from the commencement date.

Michael Howard,
Parliamentary Under Secretary of State,
Department of Trade and Industry.

5th June 1986.

SCHEDULE Regulation 4

ACADEMIC QUALIFICATIONS

PART I

1. A degree (other than an honorary degree) conferred by a University in the United Kingdom or Republic of Ireland or by the Council for National Academic Awards.

2. A general Certificate of Education or a Senior Certificate from a Secondary Education Board listed in Part II of this Schedule, in five subjects which must include:—

(*a*) English language;

(*b*) Two Advanced level passes or Higher grade passes obtained in one sitting in subjects included in the list in Part III of this Schedule ("acceptable subjects");

(*c*) Two other Ordinary level or Ordinary grade passes at appropriate grades (see note 1) in acceptable subjects or Advanced level or Higher grade passes in acceptable subjects.

NOTE 1: The appropriate grades are grades A, B, and C at the Ordinary level of the GCE, or where relevant Grades 1 to 6 at that level.

PART II

Associated Examining Board
University of Cambridge Local Examination Syndicate
University of Durham
Joint Matriculation Board
University of London
Department of Education or Ministry of Education, Northern Ireland
Northern Ireland General Certificate of Education Examinations Board
Oxford and Cambridge Schools Examination Board
University of Oxford Delegacy of Local Examinations
Southern Universities' Joint Board for Schools Examinations
Welsh Joint Education Committee
Scottish Examination Board.

PART III

Mathematics
Sciences
Modern Languages
Welsh
Gaelic
Classics
History
Geography
Economics and Politics
English Literature
Law
Music
Religious Knowledge
Modern Studies
General Studies
Principles of Accounts
Theatre Studies
Design
Home Economics

EXPLANATORY NOTE

(This Note does not form part of the Regulations.)

These Regulations make provision for the granting or refusal of applications for authorisation to act as an insolvency practitioner made to the relevant authority which, for the purposes of these Regulations is the Secretary of State, where the applications are made before the date on which the prohibition on persons acting as insolvency practitioners without an authorisation under the Insolvency Act 1985 comes into force.

The Regulations:—

(*a*) set out the factors that the relevant authority will take into account when considering whether a person is fit and proper for the purposes of section 5 of the Act (Regulation 3);

(*b*) prescribe the educational requirements that applicants must possess before an authorisation can be granted (Regulation 4 and the Schedule);

(*c*) prescribe the experience of insolvency work the applicant must have acquired before an authorisation can be granted (Regulation 5); and

(*d*) prescribe the fee that an applicant must pay and the maximum period for which an authorisation can have effect (Regulations 6 and 7).

SI 1986/951
ISBN 0-11-066951-7

