EXPLANATORY MEMORANDUM TO

THE INSOLVENCY PRACTITIONERS (RECOGNISED PROFESSIONAL BODIES) (REVOCATION OF RECOGNITION OF THE INSTITUTE OF CHARTERED ACCOUNTANTS IN IRELAND) ORDER 2025

2025 No. 549

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Justin Madders, Parliamentary Under Secretary of State at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Angela Crossley, Director of Strategy, Policy and Analysis, at the Insolvency Service confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Claire Hardgrave, Head of the Insolvency Practitioner Regulation Section at the Insolvency Service, Telephone: 443003046579 or email: claire.hardgrave@insolvency.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument revokes the recognition of the status of the Institute of Chartered Accountants in Ireland (otherwise known as Chartered Accountants Ireland or 'CAI') as a Recognised Professional Body (RPB) responsible for the authorisation and regulation of insolvency practitioners.

4.2 A person may only act as an insolvency practitioner if authorised to do so by virtue of membership of an RPB recognised for that purpose under section 391 of the Insolvency Act 1986 (the Act). There are currently four such bodies.

4.3 On 13 November 2024, CAI formally informed the Secretary of State that it wished to withdraw as an RPB and requested an order to be made revoking its RPB status. The Secretary of State has considered this request and is satisfied that it is appropriate in all the circumstances of the case to comply with these wishes and revoke CAI's recognition as an RPB.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 The Secretary of State has the power to make an order designating a suitable body as an RPB under section 391 of the Act. Conversely, when an RPB no longer wishes to act as an insolvency regulator, it can request for its RPB status to be revoked under section 391N of the Act.

5.2 On 13 November 2024, CAI made a formal request to the Secretary of State for an order to revoke its recognition as an RPB. CAI advised that additional requirements of the evolving regulatory regime, the associated costs and increased resourcing were not commercially viable in view of the very small number of its members that undertook insolvency work. At the time of its request, CAI authorised 48 insolvency practitioners.

The Secretary of State is satisfied that it is appropriate to make an order revoking CAI's recognition as an RPB. Since the request, 43 insolvency practitioners have transferred to one of the three remaining RPBs and 5 have retired. Arrangements have been put in place for the investigation of existing and new complaints relating to conduct of members and former members.

What was the previous policy, how is this different?

5.3 The legislation does not change the existing policy. The Secretary of State can revoke an RPB's recognition if the body's request is received in accordance with section 391N of the Act, and the Secretary of State is satisfied that it is appropriate considering all the circumstances of the case.

5.4 The remaining three RPBs will continue to authorise and regulate insolvency practitioners and the 43 insolvency practitioners formerly licensed by CAI, who wished to continue practising, will be able to do so whilst authorised by one of the other RPBs. Although there are some minor differences between the RPBs in respect their internal committee structures and processes, all RPBs must work to achieve regulatory objectives, which aim to ensure fair treatment, transparency, integrity, consistency and the delivery of high-quality insolvency services at a reasonable cost.

6. Legislative and Legal Context

How has the law changed?

6.1 The legislation does not change the existing law. The revocation of CAI's RPB status has no legislative impact in relation to regulation of insolvency practitioners. The only change is in relation to the regulatory landscape of the insolvency profession where 43 insolvency practitioners formerly authorised by CAI are now licensed and regulated by one of the three remaining RPBs. This should be considered in the context of the total population of insolvency practitioners being 1503 as at 1 January 2025.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary change.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Insolvency Service has not carried out a consultation and is not required to under the legislation. CAI notified its insolvency licence holders on 2 June 2024 and 18 July 2024 of its decision to request revocation of its status and practice, and advised them of alternative options. CAI also liaised with other RPBs in relation to the smooth transfer of members. All 43 licence holders who wished to continue to practice as insolvency practitioners have moved to other RPBs. The remaining 5 practitioners have retired.

7.2 Insolvency practitioner regulation is a devolved matter for Northern Ireland. The Department for the Economy (DfE) has advised that it received a request from CAI to revoke its recognition as an RPB in accordance with Article 350N(1) of the Insolvency (Northern Ireland) Order 1989, and that The Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order (Northern Ireland) 2025 has since been made and came into operation on 19 February 2025.

8. Applicable Guidance

8.1 There is no relevant guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the change does not fall within the definition of a regulatory provision within the updated Better Regulation Framework. RPBs, whilst being businesses themselves, act on behalf of a public authority in carrying out their business activities.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the 43 insolvency practitioners formerly authorised by CAI who wished to continue to practice, have transferred to other RPBs taking their active cases with them. The cases of the 5 retiring practitioners have been transferred to replacement office holders.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because a change of an insolvency practitioner's authorising body has no effect on the availability, day-to-day delivery of service by the practitioner or the legal and regulatory framework they operate under.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that no monitoring or review is intended. It is open for the CAI to apply for recognition as an RPB, should it wish to do so in the future.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Justin Madders has made the following statement: a review would be disproportionate when taking into account the effect and impact of this instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The order states both the date it comes into force and the date from which the order takes effect; for both, this is 1 June 2025. This is consistent with section 391N(4)(a) of the Insolvency Act 1986 which provides that the order states the date from which it takes effect.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").