EXPLANATORY MEMORANDUM TO

The Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order (Northern Ireland) 2021

2021 No. 304

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 Article 350N(1) of the Insolvency (Northern Ireland) Order 1989 and is subject to the no Assembly resolution procedure.

2. Purpose

2.1. To revoke the Association of Chartered Certified Accountants and the Law Society of Northern Ireland's recognition under Article 350 of the Insolvency (Northern Ireland) Order 1989 as bodies capable of authorising their members to act as insolvency practitioners.

3. Background

3.1. A person can act as insolvency practitioner if authorised to do so by a professional body which is recognised under Article 350 of the Insolvency (Northern Ireland) Order 1989 ("the 1989 Order"). The Department has power under Article 350 to make an Order designating suitable organisations as recognised professional bodies.

3.2. The Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 (S.R. 1991 No. 301) ("the 1991 Order") was made under this power. When this Order was made the bodies listed in the Schedule to it as recognised for the purposes of Article 350 of the 1989 Order included the Chartered Association of Certified Accountants and the Law Society of Northern Ireland. The Chartered Association of Certified Accountants subsequently changed its name to the Association of Chartered Certified Accountants. An amendment to the 1991 Order included in the Insolvency Practitioners (Recognised Professional Bodies) (Amendment) Order (Northern Ireland) 2017 (S.R. 2017 No.4) provided for the Association's designation for the purposes of Article 350 of the 1989 Order to be under this new name.

3.3. The Law Society of Northern Ireland wrote to the Department on 10 June 2021 asking to have the Society's designation under the Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 revoked. The Association of Chartered Certified Accountants did the same on 6 September 2021.

3.4. The Law Society of Northern Ireland stated in their letter of 10 June 2021 that they had decided that existing authorisations by the Society to act as an insolvency practitioner should remain valid up until 5 January 2022 and be revoked on 6 January 2022.

3.5. Under Article 350N of the 1989 Order, the Department can, at a professional body's request, make an Order revoking its recognition under Article 350 of that Order if the Department is satisfied that it is appropriate to do so in all the circumstances of the case. The Department is satisfied that this test is met in the case of the Law Society of Northern Ireland and the Association of Chartered Certified Accountants.

3.6. If the Department makes a revocation Order it is required, under Article 350N(3) of the 1989 Order, to publish a notice specifying the date from which the Order takes effect and the reasons for making it.

3.7. The Order has effect from 6 Januery 2022. The notice required by Article 350N(3) has been published on the Insolvency Service website and is available at https://www.economy-ni.gov.uk/publications/notice-accordance-article-350n-3-insolvency-northern-ireland-order-1989. It is also available in hard copy from the Insolvency Service, Department for the Economy, Fermanagh House, Ormeau Avenue, Belfast, BT 2 8NJ.

3.8. The Order is being brought into effect on 6 January 2022 to ensure that the Law Society of Northern Ireland retains the necessary recognition to maintain the authorisation of members of the Society to act as insolvency practitioners until 5 January 2022.

3.9. Four other professional bodies continue to be recognised under the Insolvency Practitioners (Recognised Professional Bodies) Order (Northern Ireland) 1991 as capable of authorising insolvency practitioners after 6 January 2022.

4. Consultation

4.1. No consultation has been carried out. The Association of Chartered Certified Accountants ceased to authorise insolvency practitioners on 31 December 2019 and the Law Society of Northern Ireland has written to those of its members it has licenced to act as insolvency practitioners advising them that their authorisation will be revoked with effect from 6 January 2022.

5. Equality Impact

5.1. The only people potentially affected by the making of this Statutory Rule are insolvency practitioners licensed by the Association of Chartered Certified Accountants and the Law Society of Northern Ireland.

5.2. As the Association of Chartered Certified Accountants ceased to licence insolvency practitioners on 31 December 2019, withdrawal of its recognition to authorise insolvency practitioners in Northern Ireland will have no impact on any of the section 75 groups.

5.3. The Law Society of Northern Ireland licensed a total of three solicitors to act as insolvency practitioners. The Society has confirmed that the four remaining professional bodies would be willing to take over licensing these practitioners should they wish to continue with insolvency practice.

5.4. Withdrawal of the Association of Chartered Certified Accountants and the Law Society of Northern Ireland's recognition to authorise insolvency practitioners in Northern Ireland will therefore have no impact on any of

the section 75 groups. and accordingly an equality impact assessment was not considered necessary.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment was not carried out as there will be no financial impact on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

7.1. None exist

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department for the Economy considers that this Order is compliant with section 24 of the Northern Ireland Act 1998. The Order is not incompatible with any of the Convention Rights or with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, it does not discriminate against a person or class of persons on the grounds of religious belief or political opinion and it does not modify any 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 Law Society in England and Wales had their recognition under section 391 of the Insolvency Act 1986 as a professional body capable of authorising insolvency practitioners revoked by the Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order 2016 (S.I. 2016/403).

10.2. The Law Society of Scotland had their recognition under section 391 of the Insolvency Act 1986 as a professional body capable of authorising insolvency practitioners revoked by the Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order 2015 (S.I. 2015/2067).

10.3. The Association of Chartered Certified Accountants (or Chartered Association of Certified Accountants as they were formerly known) had their recognition in Great Britain under section 391 of the Insolvency Act 1986 as a professional body capable of authorising insolvency practitioners revoked by the Insolvency Practitioners (Recognised Professional Bodies) (Revocation of Recognition) Order 2021 (S.I. 2021/110).

11. Additional Information

11.1. None.