

## Solicitors (Insolvency Practitioners) Regulations 1991

These Regulations are made by the Council of the Law Society of Northern Ireland, with the concurrence of the Lord Chief Justice, under Article 74(1) and 75(1) of the Solicitors (NI) Order 1976 (as amended) and all other powers enabling it in that behalf.

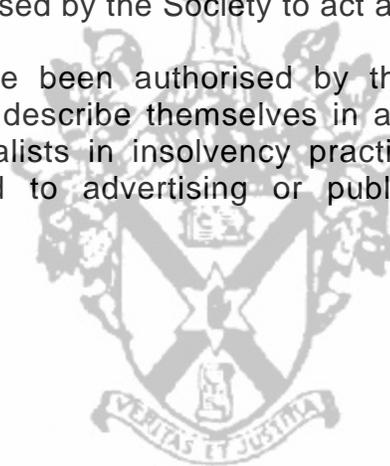
1. These Regulations may be cited as the Solicitors (Insolvency Practitioners) Regulations 1991 and shall come into operation on the 1st day of September 1991.
2. The Interpretation Act (Northern Ireland) 1954 shall apply to these Regulations as it applies to a statutory instrument.
3. No person shall be authorised by the Society to act as an Insolvency Practitioner for the purposes of the Insolvency (Northern Ireland) Order 1989 or any amending or similar legislation unless such person shall have satisfied the conditions laid down in Regulation 4.
4. The conditions to be satisfied by any person applying for recognition as an Insolvency Practitioner by the Society shall be
  - (a) the applicant must be the holder of a current unrestricted Practising Certificate (not in suspension) as issued by the Society under the Solicitors (Northern Ireland) Order 1976;
  - (b) the applicant must have been in actual practice as an admitted solicitor for an unbroken period of at least five years immediately prior to the making of the application;
  - (c) the applicant must satisfy the Society, or such committee or panel as the Society shall appoint for the purpose, that his competence and efficiency in the conduct of his practice and the offices he holds in the course of that practice are such as to ensure the proper performance of his duties in any office which he may have in contemplation including that of an Insolvency Practitioner;
  - (d) the applicant must satisfy the Society, or the said committee or panel that his knowledge of and experience in insolvency practice is adequate and satisfactory to justify the authorisation sought and that all proper means have been and will be employed by **the applicant** to **ensure that** such knowledge is maintained and extended and that such experience continues;
  - (e) the applicant must satisfy the Society or the said committee or panel that he holds security cover (including, if necessary, cover over and

above that required for the issue of a current Practising Certificate) satisfactory to the Society for the purpose of practice as an insolvency practitioner;

- (f) the applicant must establish to the satisfaction of the Society or the said committee or panel that the applicant has sat and passed any examination, whether set by the Society or otherwise, the passing of which the Society or the Department of Economic Development for Northern Ireland may declare to be a pre-condition for authorisation as an insolvency practitioner.
- 5 (a) Application by any person for authorisation to act as an Insolvency Practitioner should be made to the Registrar of solicitors in such form and in accordance with such requirements and should be accompanied by a fee of such amount as may be prescribed from time to time by the Council.
- (b) Each form of authorisation to act as an Insolvency Practitioner which may be issued to any applicant shall remain in force until the same shall be superseded by the issue of a further form of authorisation or until the same be withdrawn by the Council for any reason provided however that in no case should such form of authorisation remain in force for a period in excess of 15 months or the maximum time prescribed whichever shall be shorter.
  - (c) Any powers granted to the Council or the Disciplinary Tribunal by statute or otherwise to suspend, modify, restrict or terminate a Practising Certificate shall apply mutatis mutandis to any form of authorisation to act as an Insolvency Practitioner.
  - (d) The Council shall, in addition to the powers mentioned in sub-paragraph (c) hereof, have the power to issue, suspend, modify, restrict or terminate any form of authorisation to act as an Insolvency Practitioner upon such conditions and in such terms as the Council may in its discretion decide.
5. In considering the suitability of the applicant or the extent and quality of his knowledge and experience the Society or the said committee or panel shall take into account the provisions of the Insolvency (Northern Ireland) Order 1989, any regulations made thereunder and any guidelines which may be adopted by the Council of the Society but shall not be bound by any of the same.
7. Any **solicitor** practising as an Insolvency Practitioner shall be subject to all regulations governing practice as a solicitor as if the same were herein

set out mutatis mutandis, including, but without prejudice to the generality of the foregoing, any regulations which prohibit or limit the ability of a solicitor to act in any matter where the interests of any client conflict with those of another client or of the solicitor in person.

8. Where any person authorised by the Society to act as an Insolvency Practitioner opens any bank account in his capacity as such Insolvency Practitioner then such bank account shall for all purposes be treated and regarded as a client account within the meaning of the Solicitor's Accounts Regulations 1985 as amended and any money contained therein shall be regarded and treated as client's money. The provisions of the said Regulations and all other provisions, whether by way of Regulations made by the Society, or by way of statute or statutory rule, which affect the operation of clients' accounts by solicitors or the treatment of client's money shall apply equally to any person authorised by the Society to act as an Insolvency Practitioner.
9. Persons who have been authorised by the Society to act as Insolvency Practitioners may describe themselves in any advertising or public relations material as specialists in insolvency practice. Any regulation made by the Society in regard to advertising or public relations shall be construed accordingly.



## GUIDANCE

*Applicants must have been in actual practice for an unbroken period of at least 5 years prior to making the application. They must satisfy the Society that their competence and efficiency in the conduct of their practice and the offices which they hold are such as to ensure the proper performance of their duties if they become Insolvency Practitioners. They must also satisfy the Society that their knowledge of and experience in insolvency practice is adequate and satisfactory to justify the authorisation sought. Furthermore, it is not enough just to have the knowledge, it must be maintained and extended.*

*Applicants must also hold a suitable insurance cover in addition to the Society's own Professional Indemnity Insurance and, as and when any examinations are required they must pass the examinations.*

*Clearly in considering the suitability of any applicant the Society will have to look at their personal and financial status, any financial difficulties they may have got into in the past and any criminal record. The Society will also have to consider closely the applicant's performance in any examination or in relation to the practice of insolvency advice to which he can point. They will also have to have regard to the volume, level and quality of the insolvency work which he is engaged in.*

*It should be remembered that one does not have to be an Insolvency Practitioner to advise on insolvency. There are certain tasks (e.g., acting as a liquidator or receiver or nominee/supervisor or Trustee for which one needs to be an Insolvency Practitioner. Solicitors can still give advice without having any certificate under the new regime.*

*Writ Nov 1991*