



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 10

#### INSOLVENCY

##### *Power to establish single regulator of insolvency practitioners*

#### **144 Power to establish single regulator of insolvency practitioners**

- (1) The Secretary of State may by regulations designate a body for the purposes of—
  - (a) authorising persons to act as insolvency practitioners, and
  - (b) regulating persons acting as such.
- (2) The designated body may be either—
  - (a) a body corporate established by the regulations, or
  - (b) a body (whether a body corporate or an unincorporated association) already in existence when the regulations are made (an “existing body”).
- (3) The regulations may, in particular, confer the following functions on the designated body—
  - (a) establishing criteria for determining whether a person is a fit and proper person to act as an insolvency practitioner;
  - (b) establishing the requirements as to education, practical training and experience which a person must meet in order to act as an insolvency practitioner;
  - (c) establishing and maintaining a system for providing full authorisation or partial authorisation to persons who meet those criteria and requirements;
  - (d) imposing technical standards for persons so authorised and enforcing compliance with those standards;

- (e) imposing professional and ethical standards for persons so authorised and enforcing compliance with those standards;
  - (f) monitoring the performance and conduct of persons so authorised;
  - (g) investigating complaints made against, and other matters concerning the performance or conduct of, persons so authorised.
- (4) The regulations may require the designated body, in discharging regulatory functions, so far as is reasonably practicable, to act in a way—
- (a) which is compatible with the regulatory objectives, and
  - (b) which the body considers most appropriate for the purpose of meeting those objectives.
- (5) Provision made under subsection (3)(d) or (3)(e) for the enforcement of the standards concerned may include provision enabling the designated body to impose a financial penalty on a person who is or has been authorised to act as an insolvency practitioner.
- (6) The regulations may, in particular, include provision for the purpose of treating a person authorised to act as an insolvency practitioner by virtue of being a member of a professional body recognised under section 391 of the Insolvency Act 1986 immediately before the regulations come into force as authorised to act as an insolvency practitioner by the body designated by the regulations after that time.
- (7) Expressions used in this section which are defined for the purposes of Part 13 of the Insolvency Act 1986 have the same meaning in this section as in that Part.
- (8) Section 145 makes further provision about regulations under this section which designate an existing body.
- (9) Schedule 11 makes supplementary provision in relation to the designation of a body by regulations under this section.

#### **145 Regulations under section 144: designation of existing body**

- (1) The Secretary of State may make regulations under section 144 designating an existing body only if it appears to the Secretary of State that—
- (a) the body is able and willing to exercise the functions that would be conferred by the regulations, and
  - (b) the body has arrangements in place relating to the exercise of those functions which are such as to be likely to ensure that the conditions in subsection (2) are met.
- (2) The conditions are—
- (a) that the functions in question will be exercised effectively, and
  - (b) where the regulations are to contain any requirements or other provisions prescribed under subsection (3), that those functions will be exercised in accordance with any such requirements or provisions.
- (3) Regulations which designate an existing body may contain such requirements or other provisions relating to the exercise of the functions by the designated body as appear to the Secretary of State to be appropriate.

#### **146 Regulations under section 144: timing and supplementary**

- (1) Section 144 and, accordingly, section 145 and subsections (3) and (4) below expire at the end of the relevant period unless the power conferred by subsection (1) of section 144 is exercised before the end of that period.
- (2) The “relevant period” is the period of 7 years beginning with the day on which section 144 comes into force.
- (3) Regulations under section 144 are subject to affirmative resolution procedure.
- (4) If a draft of a statutory instrument containing regulations under section 144 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.