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STATUTORY INSTRUMENTS

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**1993 No. 221**

**INSOLVENCY**

**INSOLVENCY PRACTITIONERS**

**The Insolvency Practitioners (Amendment) Regulations 1993**

*Made* - - - - *9th February 1993*  
*Laid before Parliament* *11th February 1993*  
*Coming into force* - - *1st April 1993*

The Secretary of State, in the exercise of the powers conferred on him by sections 390, 393 and 419 of the Insolvency Act 1986(1), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Insolvency Practitioners (Amendment) Regulations 1993.

(2) These Regulations shall come into force on 1st April 1993.

(3) In these Regulations:—

“bordereau” means a form upon which an insolvency practitioner enters certain details in relation to his appointment as insolvency practitioner in relation to a person, including the name of that person, the date of appointment, the value of the assets comprised in the estate of the person estimated in accordance with Part II of Schedule 2 to the 1990 Regulations, any increase in his estimation of the value of those assets and the date of his release or discharge from the appointment, for the purposes of evidencing those matters;

“the commencement date” means the date on which these Regulations come into force;

“the 1990 Regulations” means the Insolvency Practitioners Regulations 1990(2) and any regulation or Schedule referred to by number means, unless the context otherwise requires, the regulation or Schedule so numbered in the 1990 Regulations.

**Amendments to 1990 Regulations**

2. The 1990 Regulations shall be amended as specified in regulations 3 to 11 below.

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(1) 1986 c. 45.  
(2) S.I.1990/439.

3.—(1) Paragraph (2) below shall apply to any application made to a competent authority on or after the commencement date.

(2) There shall be added at the end of paragraph 1 of Part I of Schedule 1 the words “or by any institution specified from time to time by Order of the Privy Council under section 76(1) of the Further and Higher Education Act 1992<sup>(3)</sup> or section 48(1) of the Further and Higher Education (Scotland) Act 1992<sup>(4)</sup>”.

4.—(1) Regulations 5 to 11 of these Regulations have effect in relation to any person appointed on or after the commencement date to act as an insolvency practitioner in relation to any person.

(2) Without prejudice to regulation 2(3) of the 1990 Regulations, the 1990 Regulations shall continue to apply and have effect without the amendments provided for in regulations 5 to 11 of these Regulations in relation to any person appointed to act as insolvency practitioner in relation to any person before the commencement date insofar as he continues so to act in relation to that person on or after the commencement date pursuant to that appointment or (notwithstanding paragraph (1) above) to a subsequent appointment to act as an insolvency practitioner within the scope of regulation 13 of the 1990 Regulations made on or after the commencement date.

5. Regulation 12 shall be amended as follows:—

- (a) in sub-paragraph (1)(b) there shall be substituted for the words “there is issued under that bond as soon as reasonably possible after the appointment of the practitioner a certificate of” the words “there is in force in relation to that bond with effect from the time when an insolvency practitioner is appointed to act in relation to any person a”;
- (b) in sub-paragraph (1)(c) there shall be deleted after the word “current” the words “certificate of” and there shall be substituted for the words “issued forthwith a further certificate of specific penalty in respect of the practitioner” the words “obtained by the practitioner a further specific penalty in respect of his”;
- (c) in paragraph (2) there shall be deleted the words “certificate of”, for the words “the certificate” there shall be substituted the words “the specific penalty” and for the word “issued” there shall be substituted the word “obtained”.

6. In regulation 13, for the words “certificate of specific penalty is issued” there shall be substituted the words “specific penalty is obtained” and for the later words “a certificate to be issued” there shall be substituted the words “a specific penalty to be obtained”.

7. There shall be substituted for regulation 14 the following:—

**“Inspection and retention requirements in England and Wales**

14.—(1) Where an insolvency practitioner is appointed to act in relation to any person, he shall retain a copy of the bordereau containing the entry evidencing the specific penalty obtained by him in respect of that appointment or any further specific penalty obtained by him in respect of so acting and shall produce it on demand for inspection to any person reasonably appearing to him to be a creditor or contributory of the person to whom he has been appointed, to the person (being an individual) to whom he has been appointed, to any partner in the partnership to which he has been appointed and, where the person to whom he has been appointed is a company, to any director or other officer of the company, and to the Secretary of State.

(2) The insolvency practitioner shall retain the copy of the bordereau containing the entry required to be produced under paragraph (1) above for a period of two years from the date on which he is granted his release or discharge in respect of that appointment.

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(3) 1992 c. 13.

(4) 1992 c. 37.

(3) In this regulation “company” means a company which the courts in England and Wales have jurisdiction to wind up.”

8. Regulation 15 shall be amended as follows:—

- (a) for the existing heading there shall be substituted “Inspection and retention requirements in Scotland”;
- (b) in paragraph (1), there shall be substituted for the words “any certificate” to the end, the words “any bordereau containing entries in relation to his so acting”;
- (c) in paragraph (2), there shall be substituted for the words “any certificate” to the end, the words “any bordereau containing entries in relation to his so acting”.

9. There shall be inserted after regulation 15 the following:—

**“Requirement to submit bordereau to authorising body**

**15A.—**(1) In respect of each calendar month, an insolvency practitioner shall submit to the authorising body, as defined in regulation 18(1), a copy of the bordereau containing particulars of:

- (a) any appointment during that calendar month to act as insolvency practitioner provided that, where it is not practicable to do so, such particulars may be included in a subsequent bordereau, but no later than the bordereau relating to the second month after the month of appointment;
- (b) any appointment to act as insolvency practitioner in respect of which, during that calendar month, he forms the opinion that the amount of the penalty sum under the current specific penalty must be increased in accordance with regulation 12(1) (c) above, provided that, where it is not practicable to do so, such particulars may be included in a subsequent bordereau, but no later than the bordereau relating to the second month after the month in which he forms the relevant opinion;
- (c) any appointment to act as insolvency practitioner in respect of which during that calendar month he has obtained his release or discharge, provided that, where it is not practicable to do so, such particulars may be included in a subsequent bordereau.

(2) If, in respect of any calendar month, no particulars as specified in paragraph (1) above are contained in the bordereau, it shall nevertheless be supplied to the authorising body, with a statement thereon that either there are no such relevant particulars to be supplied, or that it is not practicable to supply such particulars, as the case may be.”

10. Part I of Schedule 2 shall be amended as follows:—

- (a) in paragraph (ii) there shall be substituted for the words “fraud and dishonesty” the words “fraud or dishonesty”;
- (b) at the end of paragraph (ii) there shall be added the words “whether acting alone or in collusion with one or more persons, or the fraud or dishonesty of any person or persons committed with the connivance of the practitioner,”;
- (c) in paragraph (iii) there shall be substituted for the words “a certificate is issued by the surety accepting” the words “a bordereau is to be submitted to the surety or cautioner containing an entry completed by the practitioner evidencing the acceptance by the surety or cautioner of”.

11. Paragraph 7 of Schedule 3 shall be amended as follows:—

- (a) in sub-paragraph (iv)(a), there shall be substituted for the words “issue of certificate of” the words “submission to surety/cautioner of bordereau containing entry evidencing”;

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- (b) sub-paragraph (iv)(d) shall be deleted;
- (c) in sub-paragraph (v)(a) there shall be inserted after the words “Date of” the words “submission to surety/cautioner of bordereau containing entry evidencing”;
- (d) sub-paragraph (v)(c) shall be deleted;
- (e) in sub-paragraph (vi), there shall be substituted for the words “surety/cautioner notified of” the words “of submission to surety/cautioner of bordereau containing entry evidencing”.

*Neil Hamilton*  
Parliamentary Under Secretary of State for  
Corporate Affairs,  
Department of Trade and Industry

9th February 1993

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## EXPLANATORY NOTE

*(This note does not form part of the Regulations)*

These Regulations amend the Insolvency Practitioners Regulations 1990 with effect from 1st April 1993. They amend the prescribed requirements in respect of security or caution for the proper performance of the functions of an insolvency practitioner where he is appointed to act in relation to a person on or after that date, except for certain savings, and the records in respect of such security or caution to be kept for inspection or submitted to his authorising body by an insolvency practitioner in respect of the estate of each person in relation to whom the practitioner acts.

The Regulations also amend the prescribed educational requirements in relation to insolvency practitioners to include degrees conferred by certain institutions specified by Order of the Privy Council under section 76(1) of the Further and Higher Education Act 1992 or section 48(1) of the Further and Higher Education (Scotland) Act 1992.