



# Deregulation Act 2015

## 2015 CHAPTER 20

### *Companies and insolvency*

#### **17 Authorisation of insolvency practitioners**

- (1) Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualification) is amended in accordance with subsections (2) to (4).
- (2) In section 390 (persons not qualified to act as insolvency practitioners), for subsection (2) substitute—
  - “(2) A person is not qualified to act as an insolvency practitioner at any time unless at that time the person is appropriately authorised under section 390A.”
- (3) After section 390 insert—

#### **“390A Authorisation**

- (1) In this Part—
  - “partial authorisation” means authorisation to act as an insolvency practitioner—
    - (a) only in relation to companies, or
    - (b) only in relation to individuals;
  - “full authorisation” means authorisation to act as an insolvency practitioner in relation to companies, individuals and insolvent partnerships;
  - “partially authorised” and “fully authorised” are to be construed accordingly.
- (2) A person is fully authorised under this section to act as an insolvency practitioner—
  - (a) by virtue of being a member of a professional body recognised under section 391(1) and being permitted to act as an insolvency practitioner for all purposes by or under the rules of that body, or

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- (b) by holding an authorisation granted by the Department of Enterprise, Trade and Investment in Northern Ireland under Article 352 of the Insolvency (Northern Ireland) Order 1989.
- (3) A person is partially authorised under this section to act as an insolvency practitioner—
- (a) by virtue of being a member of a professional body recognised under section 391(1) and being permitted to act as an insolvency practitioner in relation only to companies or only to individuals by or under the rules of that body, or
  - (b) by virtue of being a member of a professional body recognised under section 391(2) and being permitted to act as an insolvency practitioner by or under the rules of that body.

### **390B Partial authorisation: acting in relation to partnerships**

- (1) A person who is partially authorised to act as an insolvency practitioner in relation to companies may nonetheless not accept an appointment to act in relation to a company if at the time of the appointment the person is aware that the company—
- (a) is or was a member of a partnership, and
  - (b) has outstanding liabilities in relation to the partnership.
- (2) A person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not accept an appointment to act in relation to an individual if at the time of the appointment the person is aware that the individual—
- (a) is or was a member of a partnership other than a Scottish partnership, and
  - (b) has outstanding liabilities in relation to the partnership.
- (3) Subject to subsection (9), a person who is partially authorised to act as an insolvency practitioner in relation to companies may nonetheless not continue to act in relation to a company if the person becomes aware that the company—
- (a) is or was a member of a partnership, and
  - (b) has outstanding liabilities in relation to the partnership,
- unless the person is granted permission to continue to act by the court.
- (4) Subject to subsection (9), a person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not continue to act in relation to an individual if the person becomes aware that the individual—
- (a) is or was a member of a partnership other than a Scottish partnership, and
  - (b) has outstanding liabilities in relation to the partnership,
- unless the person is granted permission to continue to act by the court.
- (5) The court may grant a person permission to continue to act for the purposes of subsection (3) or (4) if it is satisfied that the person is competent to do so.

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- (6) A person who is partially authorised and becomes aware as mentioned in subsection (3) or (4) may alternatively apply to the court for an order (a “replacement order”) appointing in his or her place a person who is fully authorised to act as an insolvency practitioner in relation to the company or (as the case may be) the individual.
- (7) A person may apply to the court for permission to continue to act or for a replacement order under—
- (a) where acting in relation to a company, this section or, if it applies, section 168(5B) (member of insolvent partnership: England and Wales);
  - (b) where acting in relation to an individual, this section or, if it applies, section 303(2C) (member of insolvent partnership: England and Wales).
- (8) A person who acts as an insolvency practitioner in contravention of any of subsections (1) to (4) is guilty of an offence under section 389 (acting without qualification).
- (9) A person does not contravene subsection (3) or (4) by continuing to act as an insolvency practitioner during the permitted period if, within the period of 7 business days beginning with the day after the day on which the person becomes aware as mentioned in the subsection, the person—
- (a) applies to the court for permission to continue to act, or
  - (b) applies to the court for a replacement order.
- (10) For the purposes of subsection (9)—
- “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Great Britain;
  - “permitted period” means the period beginning with the day on which the person became aware as mentioned in subsection (3) or (4) and ending on the earlier of—
    - (a) the expiry of the period of 6 weeks beginning with the day on which the person applies to the court as mentioned in subsection (9)(a) or (b), and
    - (b) the day on which the court disposes of the application (by granting or refusing it);
  - “replacement order” has the meaning given by subsection (6).”
- (4) For section 391 (recognised professional bodies) substitute—

**“391 Recognised professional bodies**

- (1) The Secretary of State may by order declare a body which appears to the Secretary of State to meet the requirements of subsection (4) to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.
- (2) The Secretary of State may by order declare a body which appears to the Secretary of State to meet the requirements of subsection (4) to be a recognised

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professional body which is capable of providing its insolvency specialist members with partial authorisation only.

- (3) An order under subsection (2) must state whether the partial authorisation relates to companies or to individuals.
- (4) The requirements are that the body—
  - (a) regulates the practice of a profession, and
  - (b) maintains and enforces rules for securing that its insolvency specialist members—
    - (i) are fit and proper persons to act as insolvency practitioners, and
    - (ii) meet acceptable requirements as to education and practical training and experience.
- (5) The Secretary of State may make an order revoking an order under subsection (1) or (2) in relation to a professional body if it appears to the Secretary of State that the body no longer meets the requirements of subsection (4).
- (6) The Secretary of State may make an order revoking an order under subsection (1) and replacing it with an order under subsection (2) in relation to a professional body if it appears to the Secretary of State that the body is capable of providing its insolvency specialist members with partial authorisation only.
- (7) An order of the Secretary of State under this section has effect from such date as is specified in the order.
- (8) An order revoking an order made under subsection (1) or (2) may make provision whereby members of the body in question continue to be treated as fully or partially authorised to act as insolvency practitioners (as the case may be) for a specified period after the revocation takes effect.
- (9) In this section—
  - (a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question (and the references in section 390A to members of a recognised professional body are to be read accordingly);
  - (b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.”
- (5) In section 415A of the Insolvency Act 1986 (fees orders (general))—
  - (a) in subsection (1) (fees for grant or maintenance of recognition of professional body), in paragraph (b) (power to refuse recognition, or revoke order of recognition, where fee not paid), after “391(1)” insert “ or (2) ”;
  - (b) after subsection (1) (fees for grant or maintenance of recognition of professional body) insert—
 

“(1A) Fees under subsection (1) may vary according to whether the body is recognised under section 391(1) (body providing full and

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partial authorisation) or under section 391(2) (body providing partial authorisation).”

- (6) An order under section 391(1) of the Insolvency Act 1986 (recognised professional bodies) made before the coming into force of this section is, following the coming into force of this section, to be treated as if it were made under section 391(1) as substituted by subsection (4) of this section.

#### Commencement Information

**II** S. 17 in force at 1.10.2015 by S.I. 2015/1732, art. 2(c)

### 18 Auditors ceasing to hold office

- (1) Chapter 4 of Part 16 of the Companies Act 2006 (audit: removal, resignation, etc of auditors) is amended as follows.
- (2) In section 519 (statement by auditor to be deposited with company on ceasing to hold office), for subsections (1) to (3) substitute—
- “(1) An auditor of a public interest company who is ceasing to hold office (at any time and for any reason) must send to the company a statement of the reasons for doing so.
- (2) An auditor (“A”) of a non-public interest company who is ceasing to hold office must send to the company a statement of the reasons for doing so unless A satisfies the first or second condition.
- (2A) The first condition is that A is ceasing to hold office—
- (a) in the case of a private company, at the end of a period for appointing auditors;
- (b) in the case of a public company, at the end of an accounts meeting.
- (2B) The second condition is that—
- (a) A's reasons for ceasing to hold office are all exempt reasons (as to which see section 519A(3)), and
- (b) there are no matters connected with A's ceasing to hold office that A considers need to be brought to the attention of members or creditors of the company.
- (3) A statement under this section must include—
- (a) the auditor's name and address;
- (b) the number allocated to the auditor on being entered in the register of auditors kept under section 1239;
- (c) the company's name and registered number.
- (3A) Where there are matters connected with an auditor's ceasing to hold office that the auditor considers need to be brought to the attention of members or creditors of the company, the statement under this section must include details of those matters.
- (3B) Where—

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- (a) an auditor (“A”) of a non-public interest company is required by subsection (2) to send a statement, and
- (b) A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company,

A's statement under this section must include a statement to that effect.”

(3) After section 519 insert—

**“519A Meaning of “public interest company”, “non-public interest company” and “exempt reasons”**

(1) In this Chapter—

“public interest company” means a company—

- (a) any of whose transferable securities are included in the official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000), or
- (b) any of whose equity share capital is officially listed in an EEA state;

“non-public interest company” means a company that is not a public interest company.

(2) For the purposes of the definition of “public interest company”, “transferable securities” means anything which is a transferable security for the purposes of Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments.

(3) In the application of this Chapter to an auditor (“A”) of a company ceasing to hold office, the following are “exempt reasons”—

- (a) A is no longer to carry out statutory audit work within the meaning of Part 42 (see section 1210(1));
- (b) the company is, or is to become, exempt from audit under section 477, 479A or 480, or from the requirements of this Part under section 482, and intends to include in its balance sheet a statement of the type described in section 475(2);
- (c) the company is a subsidiary undertaking of a parent undertaking that is incorporated in the United Kingdom and—
  - (i) the parent undertaking prepares group accounts, and
  - (ii) A is being replaced as auditor of the company by the auditor who is conducting, or is to conduct, an audit of the group accounts;
- (d) the company is being wound up under Part 4 of the Insolvency Act 1986 or Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), whether voluntarily or by the court, or a petition under Part 4 of that Act or Part 5 of that Order for the winding up of the company has been presented and not finally dealt with or withdrawn.

(4) But the reason described in subsection (3)(c) is only an exempt reason if the auditor who is conducting, or is to conduct, an audit of the group accounts is also conducting, or is also to conduct, the audit (if any) of the accounts of each

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- of the subsidiary undertakings (of the parent undertaking) that is incorporated in the United Kingdom and included in the consolidation.
- (5) The Secretary of State may by order amend the definition of “public interest company” in subsection (1).
- (6) An order under subsection (5) is subject to negative resolution procedure.”
- (4) In section 523 (duty of company to notify appropriate audit authority), for subsections (1) to (3) substitute—
- “(1) This section applies if an auditor is ceasing to hold office—
- (a) in the case of a private company, at any time other than at the end of a period for appointing auditors;
  - (b) in the case of a public company, at any time other than at the end of an accounts meeting.
- (1A) But this section does not apply if the company reasonably believes that the only reasons for the auditor's ceasing to hold office are exempt reasons (as to which see section 519A(3)).
- (2) Where this section applies, the company must give notice to the appropriate audit authority that the auditor is ceasing to hold office.
- (2A) The notice is to take the form of a statement by the company of what the company believes to be the reasons for the auditor's ceasing to hold office and must include the information listed in section 519(3).
- This is subject to subsection (2C).
- (2B) Subsection (2C) applies where—
- (a) the company receives a statement from the auditor under section 519,
  - (b) the statement is sent at the time required by section 519(4), and
  - (c) the company agrees with the contents of the statement.
- (2C) Where this subsection applies, the notice may instead take the form of a copy of the statement endorsed by the company to the effect that it agrees with the contents of the statement.
- (3) A notice under this section must be given within the period of 28 days beginning with the day on which the auditor ceases to hold office.”
- (5) Schedule 5 (auditors ceasing to hold office) makes provision about the following matters—
- (a) the notification requirements that apply on an auditor ceasing to hold office;
  - (b) the requirements that apply if there is a failure to re-appoint an auditor;
  - (c) the replacement of references to documents being deposited at a company's registered office.

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**Commencement Information**

**I2** S. 18 in force at 1.10.2015 by S.I. 2015/1732, art. 2(d) (with arts. 4, 6)

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## 19 Insolvency and company law: miscellaneous

Schedule 6 makes provision about the following matters—

- (a) deeds of arrangement;
- (b) administration and winding up of companies;
- (c) disqualification of unfit directors of insolvent companies;
- (d) bankruptcy;
- (e) insolvency practitioners;
- (f) liabilities of administrators etc and preferential debts;
- (g) appointment of proxies under company law.

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### Commencement Information

- I3** S. 19 in force at 1.10.2015 for specified purposes by S.I. 2015/1732, art. 2(e)
- I4** S. 19 in force at 9.3.2017 for specified purposes by S.I. 2017/331, art. 2(a)
- I5** S. 19 in force at 6.4.2017 for specified purposes for E.W. by S.I. 2016/1016, art. 2(a)



**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2015/994 art. 13 Sch. by [S.I. 2015/1405 art. 2\(3\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 110A inserted by [2016 c. 12 s. 16\(1\)](#)