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Department for the Economy - Proposals to Amend the Insolvency (Northern Ireland) Order 1989, the Company Directors Disqualification (Northern Ireland) Order 2002 and the Insolvent Partnerships Order (Northern Ireland) 1995

31 December 2024

IPA Response

About the IPA

The Insolvency Practitioners Association (IPA) is a membership body recognised in statute for the purposes of authorising Insolvency Practitioners (IPs) under the Insolvency Act 1986 and Insolvency (Northern Ireland) Order 1989. It is the only Recognised Professional Body (RPB) to be solely involved in insolvency and for more than sixty years the IPA is proud to have been at the forefront of developments and reform within the insolvency profession.

The IPA's population of over 600 Licensed Insolvency Practitioners (IPs) are subject to a robust regulatory regime, applied by the IPA's dedicated regulation teams carrying out complaints handling, monitoring and inspection functions.

The IPA has a longstanding and continuing commitment to improving standards in all areas of insolvency (and related) work. It was the first of the recognised bodies to introduce insolvency-specific ethics guidance for IPs, and the IPA continues to be a leading voice on insolvency matters such as the development of professional standards, widening access to insolvency knowledge and understanding, and encouraging those involved in insolvency case administration and insolvency-related work to acquire and maintain appropriate levels of competence and skills.

The comments and opinions expressed below represent the views of the IPA's Secretariat and are not intended to reflect the opinion of each individual and firm member of the IPA. Our comments in this response are based primarily on our role as an RPB.

We set out below our responses to the specific questions within the Consultation Paper.

Further enquiries should be addressed to:

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Consultation Questions

No	Amendment	Response
1.	Extension to coverage of existing provision regulating continuance of essential supplies to insolvent businesses (section 92 of the Enterprise and Regulatory Reform Act 2013 and the Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015 No. 989))	Agree
2.	Overriding termination clauses in contracts which would prevent the supply of essential services to businesses in the case of voluntary arrangements and administrations (corresponding to sections 93 and 94 of the Enterprise and Regulatory Reform Act 2013) and the Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015 No. 989))	Agree
3.	Replacement of reference to being adjudged bankrupt under the Insolvency Act 1986 (corresponding to paragraph 58 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013)	Agree
4.	To ensure that if a winding-up petition is presented after notice of intention to appoint an administrator has been given, the company or its directors can still go ahead with the appointment (corresponding to paragraph 5 of Schedule 6 to the Deregulation Act 2015)	Agree
5.	To establish more precisely the circumstances in which notice of intention to appoint an administrator has to be given to prescribed persons (corresponding to paragraph 6 of Schedule 6 to the Deregulation Act 2015)	Agree

No	Amendment	Response
6.	To simplify the procedure for an administrator to obtain his or her release in cases where there is no distribution to unsecured creditors other than out of the prescribed part (corresponding to paragraph 7 of Schedule 6 to the Deregulation Act 2015)	Agree
7.	To do away with the Court's power to order money due to a company which has been compulsorily wound up to be paid into a bank appointed by the Court (corresponding to paragraph 9 of Schedule 6 to the Deregulation Act 2015)	Agree
8.	To make provision to enable the liquidator to have his or her release on a winding up order being rescinded (corresponding to paragraph 10 of Schedule 6 to the Deregulation Act 2015)	Agree
9.	To make it possible for insolvency practitioners to be appointed as interim receivers (corresponding to paragraph 13 of Schedule 6 to the Deregulation Act 2015)	Agree
10.	To provide that persons made bankrupt on a creditor's petition will only have to submit a statement of affairs if the Official Receiver requires them to do so (corresponding to paragraph 15 of Schedule 6 to the Deregulation Act 2015)	Agree
11.	To enable the Department to obtain information directly from directors of insolvent companies (corresponding to paragraph 11 of Schedule 6 to the Deregulation Act 2015)	Agree
12.	To give administrators the right to take action for fraudulent or wrongful trading (corresponding to section 117 of the Small Business, Enterprise and Employment Act 2015)	Agree
13.	To give liquidators and administrators the right to assign causes of action (corresponding to section 118 of the Small Business, Enterprise and Employment Act 2015)	Agree
14.	To ensure that proceeds of office-holder claims go to ordinary creditors (corresponding to section 119 of the Small Business, Enterprise and Employment Act 2015)	Agree

No	Amendment	Response
15.	To allow liquidators and trustees to undertake various acts without needing to obtain sanction (corresponding to sections 120 and 121 of the Small Business, Enterprise and Employment Act 2015)	Agree
16.	To remove meetings of creditors as the default position in insolvency proceedings (corresponding to sections 122 and 123 of the Small Business, Enterprise and Employment Act 2015)	Agree
17.	To do away with the requirement to hold final meetings in liquidations and bankruptcies (corresponding to paragraphs 18, 29, 38, and 83 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015)	Agree
18.	To allow creditors to opt out of receiving certain notices (corresponding to sections 124 and 125 of the Small Business, Enterprise and Employment Act 2015)	Agree
19.	To double the period for which an administrator's appointment can be extended with the consent of creditors to one year (corresponding to section 127 of the Small Business, Enterprise and Employment Act 2015)	Agree
20.	To allow administrators to make payments to unsecured creditors out of the prescribed part without having to seek permission from the Court (corresponding to section 128 of the Small Business, Enterprise and Employment Act 2015)	Agree
21.	To remove the need for creditors to claim for small debts (corresponding to sections 131 and 132 of the Small Business, Enterprise and Employment Act 2015)	Agree
22.	For the Official Receiver to become trustee immediately on a Bankruptcy Order being made (corresponding to section 133 of the Small Business, Enterprise and Employment Act 2015)	Agree
23.	To abolish fast-track voluntary arrangements (corresponding to section 135 of the Small Business, Enterprise and Employment Act 2015)	Agree

No	Amendment	Response
24.	To create a requirement for the Enforcement of Judgments Office to be notified of proposals for voluntary winding up of companies	Agree
25.	To correct an error in Article 239 of the 1989 Order, which makes having the right to present a bankruptcy petition to the Northern Ireland High Court conditional on the debtor being resident in, or carrying on business in Northern Ireland	Agree
26.	Replacement of reference to being adjudged bankrupt by the court (corresponding to paragraph 8 of Schedule 1 to the Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016)	Agree
27.	To update the Insolvent Partnerships Order (Northern Ireland) 1995 in line with changes made to the Insolvent Partnerships Order 1994 applying in England and Wales, by various pieces of amending legislation	Agree
28.	Proposed amendment to provide for provisions in the Company Director Disqualification (Northern Ireland) Order 2002 to apply where a partnership enters administration or is being wound up otherwise than as an unregistered company	Agree
29.	Proposed amendment to remove disqualification for breach of competition law out of scope of the Insolvency Partnerships Order (Northern Ireland) 1995	Agree