



## Regulatory Rules

(These rules were adopted by the Board on 30 November 2022 and came into force on 1 December 2022)

### Interpretation

1. Words and expressions have the meanings given by the Insolvency Act 1986 (the Act) and the Interpretation Act 1978 unless defined in these rules. In the event of a conflict the definitions in these rules take precedence over the Act and the Interpretation Act 1978.
2. In these rules words importing the singular number include the plural and vice versa. Section headings are not part of the rules and are for guidance only.
3. Any references to legislation, regulations, rules or other documents will apply to any re-enactment, re-issue or amendment.

### Definitions

4. In these rules the following expressions shall have the following meanings: -

Adverse Findings	Includes any previous finding, Order or orders by a committee of the Association and includes a finding of prima facie case, whether or not followed by a sanction and or costs;
Appeal Panel	A Panel constituted under the Appeal Rules following an appeal pursuant to Rule 56 of these Rules;
Appellant	an Applicant or Licence Holder who has given valid notice of appeal under Rule 56 but not to include an Applicant for Membership or re-admission;
Applicant	an individual applying for membership or an Individual Member of the Association applying for grant or renewal of a Licence to practice as an Insolvency Practitioner;

the Articles	the Articles of Association of the Association for the time being in force;
The Association	The Insolvency Practitioners' Association;
Advisory Notice	A Notice issued by a member of the Association's monitoring team during or subsequent to a Visit to an IP recommending changes to the IP's conduct or practice. Such a Notice will expire after six years from the date it was issued;
Bond	in relation to each Individual Member who intends to accept Insolvency Appointments such bond as is required to be taken out under Schedule 2 of the Insolvency Practitioners Regulations 2005;
Chair	Chair of the Regulation and Conduct Committee;
Conditions	A limitation and restriction on a Licence Holder's authorisation to conduct insolvency work;
The Committee	The Regulation and Conduct Committee from time to time appointed by the Board under Article 67.1;
Continuing Professional Education	such number of hours of continuing professional education as may from time to time be specified by the Board in Guidelines issued by the Board for the purpose;
Direct sanctions direction	A direction by the Secretary of State to a Recognised Professional Body in relation to an insolvency practitioner;
Direct sanctions order	An order made by the High Court against an insolvency practitioner;
Employee	any person who carries out insolvency work or administration in the service of an Individual Member holding a Licence issued by the Committee, or their firm or company, including a subcontractor or consultant and employed shall be construed accordingly;
Guidelines	requirements, criteria and guidance issued by the Board from time to time;

Hearing	any Hearing before an Appeal Panel and shall include the making of any finding or decision in connection with the appeal and any re-hearing;
Insolvency Act 1986 (the Act)	Insolvency Act 1986 as from time to time amended or replaced;
Insolvency Practitioners Regulations 2005	Statutory Instrument No. 524 of 2005 as from time to time amended or replaced;
Insolvency (England & Wales) Rules 2016	Statutory Instrument No.1024 of 2016 as from time to time amended or replaced;
The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018	Statutory Instrument No. 1082 (S.4) of 2018 as from time to time amended or replaced;
The Insolvency (Scotland) (Receivership and Winding up) Rules 2018	Scottish Statutory Instrument No. 347 of 2018 as from time to time amended or replaced;
Joint Insolvency Examination Board	The board responsible for the examinations which must be passed for an individual to be eligible for a Licence to practice as an Insolvency Practitioner where Rule 24(a) and (b) applies;
Lay Member	Any person who is not or has not been an Individual Member of the Association or qualified to act as an Insolvency Practitioner as defined in S388 Insolvency Act 1986 at any time.;
Licence	an Insolvency Authorisation issued by the Association pursuant to these Rules;
Licence Fee	the sum to be paid on application for grant or renewal of a Licence;
Licence Holder	An individual who has been issued with and continues to hold a current Licence under these rules;
the NI Order	the Insolvency (Northern Ireland) Order 1989 (Statutory Instrument No. 2405 of 1989) as from time to time amended;
Northern Ireland Licence	a Licence issued by the Association authorising an Individual Member to act as an Insolvency Practitioner under the NI Order;

Notice	any document, including a letter, to be given in writing required to be given, delivered or sent to an Individual Member under or in connection with these Rules which may be given or sent by pre-paid post addressed to them at their Registered Address;
Regulatory Order	an order made by the Committee under Rule 16 which cannot be the subject of an appeal;
Registered Address	the address registered with the Association in accordance with Article 15.2;
Restriction	a limitation and condition on a Licence Holders authorisation to undertake insolvency work;
Supervisory Authority	a Supervisory Authority under Regulation 7 of the Money Laundering Regulations 2017;
Targeted Visit	a visit ordered by the Committee which may include such terms and conditions as the Committee considers appropriate;
These Rules	the Regulatory Rules made and from time to time amended by the Committee and adopted by the Board. Any references to a Rule shall be to a corresponding number in these Rules unless otherwise stated;
Emergency Order	An order made under rule 41 that orders made under Rules 35 and 38 can come into effect immediately such order is made and not stayed if notice of appeal is given;
Vice-Chair	Vice-Chair of the Regulation and Conduct Committee;
Visit	a visit to the member's place of work by one or more members of the Association's monitoring team to review live matters and procedures and lay down recommendations/requirements as to the Member's future conduct;
Withdrawal Order	an order made by the Committee under Rule 35.

5. Expressions defined in Article 1 of the Articles shall, when used in these Rules, have the same meaning herein as therein the second and third paragraphs of Article 1 (unless the context otherwise requires) shall apply to these Rules as they apply to the Articles and expressions defined in the Insolvency Practitioners Regulations 2005 shall have the same meaning when used in these Rules.
6. References to the Regulation and Conduct Committee, the Disciplinary and Appeals Committee, shall be to the Committees from time to time appointed as such by the Board pursuant to the Articles.

### **Qualification to Act**

7. Subject to the provisions of section 390 of the Insolvency Act 1986 (IA 86) an Individual Member of the Association shall be qualified to act as an Insolvency Practitioner if
  - a) they hold a current and valid Licence issued by the Association; or
  - b) any authorisation issued by any other professional body recognised by the Secretary of State under the IA 86; or
  - c) an authorisation issued under Section 390A IA 86, provided they also hold;
    - an enabling bond which meets the prescribed requirements as defined in the Insolvency Practitioners regulations 2005 (SI 2005 No. 524) (as amended by the Provision of Services (Insolvency Practitioners) Regulations 2009 (SI 2009 No. 3081)).
    - professional indemnity insurance with a reputable insurance company which complies with such requirements as may from time to time be laid down by the Board in Guidelines for that purpose.

### **Regulation and Conduct Committee**

8. The Committee shall consist of not less than five persons, comprising:
  - a) at least two Individual Member; and
  - b) at least three Lay Members
9. In addition to the persons appointed pursuant to Rule 8, the Board may from time to time appoint persons who are members of a relevant Committee (or members of another relevant professional body) as co-opted members of the Committee, each such person to be appointed for such term as the Board may in each case determine and during such period of appointment, each such person shall be a member of the Committee but shall not be included for the purposes of determining whether a quorum is present.
10. The quorum for meetings of the Committee shall be three and the meeting shall not be quorate unless the number of lay persons in attendance exceeds or is equal to the number of individual members in attendance.

### **Responsibilities of the Committee**

11. The Committee shall be responsible for:
  - a) recommending individuals and Firms to the Board for membership of the Association in the category for which they have applied, and decisions under Articles 19.2 (ill health or incapacity) and 19.3 (Insolvency or CDDA Order) and 20 (Date when resignation becomes effective) and 21 (re-admission);

- b) granting applications for authorisation;
  - c) granting applications for authorisation subject to restrictions or conditions;
  - d) refusing applications for authorisation;
  - e) dealing with applications for renewals of insolvency licences;
  - f) reviewing inspection reports, Advisory Notices issued by Inspectors, reviewing the returns and reports made under these rules and investigating failure to make returns or reports;
  - g) requesting undertakings from a Licence Holder;
  - h) imposing restrictions or conditions on the acceptance of appointments or on the conduct of insolvency work by a Licence Holder;
  - i) ordering a Targeted Visit to the office or offices of a Licence Holder and deciding the terms of reference of the visit and the charge or basis of the charge for the Visit;
  - j) proposing a sanction, including a regulatory fine, it considers appropriate to a Licence Holder for an admitted regulatory breach or default under Rule 14;
  - k) withdrawing authorisations;
  - l) making appropriate enquiries to confirm that a Licence Holder is complying with these rules (by writing, visiting a Licence Holder's offices, using a periodic return, or in any way deemed appropriate by the Committee's agents);
  - m) reviewing reports and complaints about a Licence Holder;
  - n) requiring a Licence Holder or an applicant for authorisation to disclose and/or submit any information the Committee considers necessary. Such information may include books, papers and records about the Licence Holder, applicant or any firm with which they are connected and the administration arrangements of those entities and about the Licence Holder's current and past appointments;
  - o) publishing, in any manner it decides, its orders or decisions as it considers appropriate;
  - p) making such orders as may be necessary to effect an orderly winding down or transfer of appointments;
  - q) applying the processes relating to Debt Relief Orders in accordance with Rules 60 to 65
12. In exercising its powers under these Rules, the Committee will treat all information obtained by it in the course of its activities as confidential but may in such circumstances as it deems appropriate disclose any such information either:
- a) to any individuals appointed to review complaints arising out of the Association's functions as a Recognised Professional Body and or Supervisory Authority; or
  - b) to the Secretary of State or his officials and the Department for Business, Energy & Industrial Strategy; or any successor Department; to the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) (or any successor body under the Financial Conduct Authority (FCA));
  - c) any Recognised Professional Body or other self-regulating organisation which the Board determines for the purposes of this Rule to be a relevant professional body or organisation; or

- d) as required by law or in pursuit of a criminal investigation;
  - e) in connection with and for the purpose of the transfer of appointments to other insolvency practitioners; or
  - f) to the Secretariat; or
  - g) so far as is necessary for the proper performance by the Association of statutory or regulatory duties; or
  - h) to its legal advisers as and when necessary.
13. In carrying out its duties under these regulations, in addition to the information the IPA as a Recognised Professional Body is required to consider, the Committee may take into account such information as it thinks fit, including the following:
- a) any disciplinary findings, orders, regulatory sanctions, open investigations or any other information concerning or affecting the fit and proper status of any Licence Holder or applicant;
  - b) any information relating to any individual who is or will be employed by or associated with the Licence Holder in connection with insolvency work;
  - c) any investigation concerning the insolvency work or other activities of the Individual Member concerned (or of a partner, fellow principal or Employee of an Individual Member) then being undertaken by the Committee;
  - d) whether the Applicant/Licence Holder has established procedures designed to ensure that anyone employed by or associated with them in connection with their insolvency work, or who proposes to be so employed or associated, is a fit and proper person and, in this regard the Committee shall be entitled to request and it shall be the duty of the Applicant to provide any such information relating to any individual who is or will be employed by or associated with the Applicant/Licence holder as the Committee may request.
14. Without prejudice to the Committee's duty to consider any matter which in its opinion relates to whether the Individual Member is a fit and proper person to hold a Licence and its duty to consider any matter coming to its attention which the Committee considers could give rise to a liability to disciplinary action, the Committee may on reviewing an inspection report and on reviewing any Advisory Notices and finding evidence of regulatory breaches and defaults and reviewing any representations made by a Licence Holder, invite them to accept those breaches and defaults and propose a regulatory sanction subject to the following:
- a) the Licence Holder must have agreed a breach or default (including in relation to the Code of Ethics and guidance) has been committed before a sanction is proposed;
  - b) if the sanction includes a fine the Committee will decide the amount proposed and when it is to be paid; and,
  - c) if the Licence Holder wishes to accept the terms on which the sanction is proposed, they must notify the IPA within ten business days of the date of service of the letter containing the proposal.
15. If the Licence Holder makes representations in response to a proposal made in accordance with Rule 14 and these are received by IPA within the ten business days of the letter described in Rule 14, they will be considered by the Committee and it may vary the sanction

including the amount of a proposed fine or terms of the sanction and re-issue its proposal for acceptance by the Licence Holder.

16. If the Licence Holder accepts in writing the sanction under Rule 14 the Committee:
  - a) will make an order, as soon as is practical; and
  - b) may publish the order in any way it decides
17. There is no right of appeal in respect of a Regulatory Order and the order made under Rule 16 will be retained by IPA and the Committee may at a future date take that order and the circumstances in which it was made, into account.
18. If a Licence Holder:
  - a) does not agree that a breach has been committed, or
  - b) does not agree to the terms of the regulatory sanction proposed, or
  - c) fails to comply with the terms of the regulatory sanction, or
  - d) fails to respond to a proposal (made under Rule 14)

the Committee shall move immediately to consider the Licence Holder's potential liability to disciplinary action in accordance with the Conduct Rules.

### **Investigative Powers**

19. For the purposes of discharging any of its responsibilities under these Rules, the Committee shall have the power: -
  - 19.1 to require any Applicant to disclose or submit or to use best endeavors to procure that any necessary third party or Individual Member or Firm Member shall disclose or submit to the Committee such information, including books, papers, documents or other records (including but without prejudice to the generality of the foregoing, time records and partnership books and details) as the Committee considers necessary; and
  - 19.2 to require any Individual Member or Applicant to attend before the Committee on reasonable notice or to answer written questions prepared by or on behalf of the Committee; and
  - 19.3 to review (at the Individual Member's business premises or elsewhere) such books, papers, documents or other records in hard or electronic format or initiate any other investigations which the Committee considers to be necessary; and
  - 19.4 to appoint any person or persons as its agent for the purposes of carrying out such review or investigation.

### **Obligations and Duties of Applicants**

20. Every Applicant must:
  - 20.1 comply with these rules and any orders made under them;
  - 20.2 comply with the requirements of Insolvency Act 1986 and any other relevant legislation;



- 20.3 comply with the Insolvency Practitioners Regulations 2005 (as amended) and Insolvency Practitioners Regulations (Northern Ireland) 1991, the Insolvency (England and Wales) Rules 2016, The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018, The Insolvency (Scotland) (Receivership and Winding up) Rules 2018 and all related and consequential regulations, instruments and legislation;
- 20.4 comply with Statements of Insolvency Practice and all guidance or guidelines issued with the approval of the Board;
- 20.5 make sure that there are adequate procedures and supervision in place to comply with these rules in relation to the conduct of insolvency work for which they are responsible;
- 20.6 cooperate with the Association, its committees, staff and its agents, without limitation this includes an obligation to:
  - 1. ensure that any application or application for renewal (as the case may be) is in each case duly completed signed and dated and accompanied by a remittance for the appropriate amount and shall (in the case of an application for renewal) reach the Secretary on or before 30th November (or such other date as is resolved and notified by the Committee) in the year prior to the year in respect of which the application is made;
  - 2. co-operate fully with the Committee in any review or investigation required under these Rules and to respond within a period set down by the Committee to any questions or requests for production of or access to further documents or information issued by the Committee or its duly appointed agent;
  - 3. use best endeavours to secure the co-operation of the firm of which the Applicant is a partner or employee in complying with any request made by the Committee or its duly appointed agent under these Rules;
- 20.7A Licence Holder must promptly notify the Committee:
  - 1. of any change in circumstances which might affect their eligibility for authorisation or ability to accept appointments; and
  - 2. any significant change including but not limited to:
    - a) the name and current address of the Licence Holder; or
    - b) the Licence Holder's business names and addresses, if different from 20.7a) above; or
    - c) the address where insolvency case records including details of appointments are kept; or
    - d) any matter relating to any of the firm's principals, or, if a company, its directors, or employees which could render the Licence Holder no longer fit and proper to be appointed as an insolvency practitioner; or
    - e) cessation of compliance with the Professional Indemnity Insurance Regulations relating to bonds of security or specific case bonds of security by the Licence Holder

21. Where an Individual Member fails to comply with the requirements of Rule 20, the Committee shall not be obliged to consider an application unless the Individual Member is able to satisfy the Committee that there is reasonable cause for such failure save that no failure on the part of the Secretary to send out a reminder to any Individual Member prior to the renewal application date shall constitute a valid reason for non-compliance with this Rule.
22. Any Individual Member who does not intend to retire from practice with effect from the 1st January in the following year and who has not delivered a duly completed signed and dated application to the Secretary by the immediately preceding 31st December shall be liable to have the matter referred to the Committee by the Secretary for investigation.

**Licence Applications****Eligibility and Applications**

23. Every Applicant wishing to qualify for the initial grant of a Licence shall satisfy the Committee, in their sole discretion, that they are a fit and proper person to act as an Insolvency Practitioner; and either
  - a) have passed the examination set by the Joint Insolvency Examination Board, or
  - b) have acquired in, or been awarded in a country or territory outside the United Kingdom, professional or vocational qualifications which indicate that the Applicant has the knowledge and competence that is attested by a pass in that examination;

**Or**

  - c) if an Individual Member was previously authorised by another professional body recognised by the Secretary of State under IA 86 or under Section 390A of IA 86, provide the Committee with evidence satisfactory to it that he has relinquished such authorisation or will do so upon being granted a Licence by the Association;
24. In addition, whichever limb of Rule 23 applies, every applicant shall:
  - 24.1 immediately prior to their application for a Licence have acquired practical training and insolvency work experience of such nature and duration as the Board may from time to time prescribe; and
  - 24.2 inform the Committee of any previous disciplinary findings, convictions, sentences or judgments (including criminal or civil Court decisions) with full details; and
  - 24.3 satisfy the Committee that during the twelve months immediately prior to the application they have completed Continuing Professional Education; and
  - 24.4 satisfy the Committee as to their proficiency in the English language, both spoken and written; and
  - 24.5 tender the fee referred to in Rule 30 and pay any outstanding costs payable under the Investigation, Disciplinary or Appeal Committee Rules; and
  - 24.6 apply in accordance with these Rules.
25. Every Individual Member/Licence Holder wishing to qualify for the renewal of a Licence shall: -

- 25.1 satisfy the Committee, in its sole discretion, that they continue to be a fit and proper person to act as an Insolvency Practitioner; and
  - 25.2 demonstrate continuing knowledge of and experience in insolvency practice to the extent which the Committee shall from time to time lay down in Guidelines, having regard to any requirements of the Secretary of State for recognising the Association under the Insolvency Act; and
  - 25.3 confirm that the requirements of Part 3 of the Insolvency Practitioners Regulations 2005 have been complied with throughout the period of the Licence which they are applying to renew; and
  - 25.4 undertake to continue to comply with the requirements of Part 3 of the Insolvency Practitioners Regulations 2005; and
  - 25.5 confirm (and upon the request of the Committee demonstrate) that they have during a twelve-month period prior to the date with effect from which they have applied for renewal of their Licence as may be prescribed by the Board, undertaken Continuing Professional Education; and
  - 25.6 tender the fee referred to in Rule 30 and pay any outstanding costs payable under the Investigation, Disciplinary or Appeal Committee Rules; and
  - 25.7 apply in accordance with these Rules for the renewal of his Licence.
26. Any Individual Member who has at any time in the past held a Licence granted pursuant to these Rules which has for any reason lapsed or been terminated, suspended or withdrawn, shall if the Committee so requires, in order to qualify for the grant of a Licence, in addition to fulfilling the requirements of Rule 23, 24 and 25 also have passed the most recent examination set by the Joint Insolvency Examination Board if the Committee shall in its absolute discretion so require.
27. Each application for an initial grant or renewal of a Licence (which shall be in such form as the Committee may from time to time prescribe) shall be signed by the Applicant and accompanied by either:
- a) such evidence as the Committee may from time to time prescribe including evidence of compliance with the requirements of Part 3 of the Insolvency Practitioners Regulations 2005; or
  - b) written confirmation that the Applicant does not, for such period as may be specified in such confirmation, intend to accept appointments to act as an Insolvency Practitioner under the Insolvency Act.

### **Dual Licensing Not Permitted**

28. A Licence shall not be granted to an Individual Member who is qualified to act as an Insolvency Practitioner by virtue of an authorisation granted by any other professional body recognised by the relevant Secretary of State under IA 86 or by virtue of an authorisation issued under Section 390A IA 86.

**Bonds**

29. A qualifying Bond must be lodged with the Association before acceptance of any Insolvency Appointment.

**Licence Fees and other Charges**

30. Every Individual Member applying for or holding a Licence shall pay, on application for initial grant and renewal thereafter, a fee (including the Licence Fee), the amount of which shall be determined by the Board from time to time.

**Additional Costs**

31. If in the Committee's opinion an application for or an application to renew a Licence has entailed an unusual amount of additional work on the part of or on behalf of the Committee or staff of the Association, the Committee may require any Applicant applying for or renewing a Licence to pay to the Association such amount as the Committee considers reasonable towards the costs of the Association incurred in relation to the Applicant in connection with:-
- a) his application for, or application for renewal of, a Licence; and/or
  - b) carrying out an inspection of records under the Insolvency Practitioners Regulations 2005; and/or
  - c) the discharge by the Committee or its duly authorised agent of their responsibilities under these Rules; and/or
  - d) the discharge by the Association of any of its functions as a Recognised Professional Body under the Insolvency Act
32. Before making any decision as to the costs payable to the Association pursuant to Rule 31 the Committee shall first give the Applicant an opportunity to make representations in writing or orally (as the Committee may determine) as to whether costs should be so imposed and/or the quantum of any such costs.
33. Any costs payable pursuant to Rule 31 shall be paid within 28 days of the date the invoice for such costs is sent to the Applicant.

**Duration of a Licence**

34. A Licence shall unless withdrawn under Rule 35, remain in force until 31<sup>st</sup> December of the year in respect of which it was issued, but the holder of a Licence shall cease to be qualified to act as an Insolvency Practitioner if: -
- a) an Order is made by a Disciplinary Tribunal or if such Order is appealed against, an Appeal Panel, revoking a Licence; or
  - b) the holder acts, or purports to act, at any time as an Insolvency Practitioner when a Bond is not in force; or
  - c) the holder ceases to be an Individual Member of the Association.

**Regulatory Action, Licence Withdrawal, Restrictions and Conditions****Licence Withdrawal and Grounds for Withdrawal of a Licence**

35. The Committee shall have the power, by Notice in writing, to withdraw a Licence if it has grounds which in its view demonstrate that the Individual Member has ceased for any reason to be a fit and proper person to act as an Insolvency Practitioner as shown by:
- a) failure to comply with any restriction or condition imposed under these Rules; or
  - b) the Licence Holder has breached or ceased to comply with any of these Rules in any other respect or any order made thereunder, and, in the circumstances, in the Committee's view, withdrawal is justified; or
  - c) the continued authorisation of the Licence Holder is likely to be prejudicial to the public interest;
  - d) the Licence Holder has failed to submit within thirty days of the due date such returns or reports as are required under these Rules; or
  - e) the Licence Holder has ceased to meet the requirements of or failed to comply with the Insolvency Practitioners Regulations 2005 (as amended) or the Insolvency Practitioners Regulations (Northern Ireland) 1991 (as amended) relating to bonds of security; or
  - f) the Licence Holder has failed to comply with the Association's Professional Indemnity Insurance Regulations; or
  - g) the Licence Holder has failed to pay any fees due to the IPA for more than 30 days.
36. An Individual Member on whom a Notice has been served pursuant to Rule 35 shall not take any new appointments or hold themselves out as an Insolvency Practitioner unless and until:
- a) the decision of the Committee has been reversed by an Appeal Panel; or
  - b) the decision of the Committee has been varied or substituted by an Appeal Panel by any decision other than a decision to suspend the Licence in question; or
  - c) where, following an Order by an Appeal Panel that the Committee reconsider its decision, the Committee has reversed its original decision; or
  - d) a new Licence is granted.
37. Subject to the provisions of Rule 42, any such appeal against any decision of the Committee to withdraw a Licence as is made in accordance with Rule 35 shall stay such withdrawal pending the outcome of such an appeal.

**Licence Restriction and Grounds for Restrictions and Conditions**

38. The Committee shall have power, by Notice in writing, served on the Individual Member/Licence Holder under this Rule, to impose restrictions and or conditions on a holders Licence if it appears to the Committee that:
- 38.1 the issue of such a Notice is necessary for the protection of the public or any assets under their control; and/or
  - 38.2 they are not a fit and proper person to act as an Insolvency Practitioner; and/or
  - 38.3 they have contravened any of these Rules, any other Rules of the Association or any provisions of the Act, the Insolvency Act 1986, or the Insolvency Practitioners Regulations 2005, , The Insolvency (England and Wales) Rules 2016 or the Insolvency (Scotland) (Receivership and Winding up) Rules 2018, The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018, the NI Order; and/or
  - 38.4 they have contravened the rules and regulations of any other Recognised Professional Body for the purposes of the Insolvency Act; and/or
  - 38.5 they have given the Association, or any other person, materially false, inaccurate or misleading information; and/or
  - 38.6 the Licence Holder has failed to comply with undertakings given to the Committee under rule 11 (g); and/or
  - 38.7 it must do so as required by a direct sanctions order made by the High Court or a direct sanctions direction received from the Secretary of State.
39. The Notice served under Rule 38 will give brief particulars of the grounds for the Committee's decision to impose restrictions and conditions on the Licence Holder's Licence and specify one or more of the following restrictions or conditions on the conduct of insolvency work or on accepting new appointments to be imposed:
- a) the Licence Holder shall not accept any further Insolvency Appointments as an Insolvency Practitioner until a date specified in the Order, or until further steps as are specified in the Order have been taken; or
  - b) the Licence Holder accepts, cooperates fully and take all steps necessary to comply with the Committee's Order that the Individual Member and as appropriate their firm, be the subject of a Targeted Visit by the Association's agents on such terms and conditions as the Committee may require including that they will pay the costs of such a visit; or
  - c) that on or before a date specified in the Order, the Licence Holder shall take such steps as are specified in that Order; or
  - d) that the Licence Holder shall comply with such conditions as are specified in the Order; or
  - e) that without prejudice to the provisions of Rule 31 the Licence Holder shall pay to the Association all or a proportion of the legal and other costs of the Committee in connection with the making of any Order within 28 days of the date of the invoice for such costs; or

- f) any further Order of a similar nature which it considers to be appropriate in the circumstances; or
- g) the Licence Holder shall enter into such written undertaking or undertakings with the Association as to their conduct in such terms and for such duration as the Committee may request; or
- h) any combination of the above.

40.A Where any Order under Rule 38 has been made and the Committee is satisfied that the Individual Member has failed to comply with or has breached such Order, the Committee may make a further Order containing such other or additional restrictions or withdrawing or suspending the Licence as it considers appropriate.

40B Where the Regulation and Conduct Committee considers for any reason (including but not limited to an order made by any of the Association's Committees, Tribunals or Panels) that it was and/or is reasonable for the Association to:

- a) perform work relating to the potential or actual exercise of the Association's powers to withdraw or impose restrictions or conditions on a Licence (including but not limited to the powers within the Regulatory Rules, Disciplinary Rules or Appeal Rules),
- b) make an application for a Block Transfer Order (or equivalent order) in relation to a Member's (or former Member's) insolvency appointments, and / or
- c) make arrangements for the transfer of a Member's (or former Member's) insolvency appointments or trusteeships to another Insolvency Practitioner,

the Regulation and Conduct Committee shall have the power to order that the Member (or former Member) shall pay to the Association such amount as the Committee considers reasonable towards the costs incurred by and/or estimated future costs of the Association of or arising in connection with such work, application and/or arrangements, which costs shall include but not be limited to the Association's legal costs, agent's costs, costs which the Association agrees to pay to another insolvency practitioner or to the estates under their control and the costs of the Association's staff and resources. Any costs payable pursuant to this rule shall be paid within 28 days of the date the invoice for such costs is sent to the Member (or former Member, or their representatives).

40C Before making any decision as to the costs payable to the Association pursuant to rule 40B, the Regulation and Conduct Committee shall, if it considers appropriate, give the Member (or former Member) or their representative an opportunity to make representations in writing or orally (as the Regulation and Conduct Committee may in its sole discretion determine) as to whether a costs order should be made and/or the quantum of any such costs.

### **Emergency Orders**

41. Subject to Rule 42, the Committee may withdraw a Licence Holder's authorisation under Rule 35 or impose restrictions and or conditions on the licence of a Licence Holder under Rule 38 without prior notice when the Committee considers that it must

- take immediate action and any delay in making such an order might be materially prejudicial to the public interest.
42. An order made by the Committee under Rule 41 will be set out in a written Notice and the order comes into effect when made and is not stayed by an appeal. The Notice will be served on the Individual Member without delay.
43. An order under Rule 41 may be made by the Chair or Vice-Chair and at least two other members of the Committee, acting in consultation with the Secretary. The Secretary shall immediately after the exercise of such powers, notify all Committee members in writing of the exercise of the emergency powers pursuant to Rule 41, the circumstances giving rise to the need to exercise those powers and the manner in which those powers have been exercised.
44. A Notice served under Rule 42 may in addition to the terms of the Order made under Rules 35 and 38 also: -
- 44.1 prohibit the Licence holder from continuing to act as an Insolvency Practitioner with immediate effect in relation to any one or more estates to which they are appointed; and/or
  - 44.2 require the Licence Holder to provide forthwith in writing to the Committee such information as the Notice may specify; and/or
  - 44.3 require the Licence Holder to cooperate in the transfer to an Insolvency Practitioner nominated or approved by the Association, the conduct of all or any such estates to which they may have been appointed and by no later than such date or dates as may be specified in the Notice; and/or
  - 44.4 prohibit the Licence Holder from disposing of or otherwise dealing with any of the assets or liabilities of any estates to which they may have been appointed (or any such as may be specified in the Notice) in any specified manner or otherwise than in a specified manner.
45. Any Notice under this Rule shall: -
- a) be dated; and
  - b) name the person to whom it is addressed and on whom it is to be served in addition to the Licence Holder; and
  - c) specify that the order shall take effect immediately or as the case may be the time and date it is to take effect (being not less than fifteen Business Days from the date of service of the Notice) and its duration, or that it is of indefinite duration; and
  - d) give an outline of the reasons for the Notice
46. Any Notice served pursuant to Rule 42 may be served by hand, by facsimile transmission, by email or by post to the Registered Address, last business or home address notified to the Association and a copy of the Notice shall be served on any other person named in the Notice.



47. Any Individual Member on whom a Notice is served under Rule 42 may within 10 business days of service of the Notice make written representations to the Committee which will convene to consider as soon as reasonably practicable those representations and it may:
- a) withdraw the order;
  - b) continue the order; or
  - c) make such other order as it considers necessary including an order to withdraw or order restrictions and conditions under Rules 35 and 38 which may then be subject to an appeal in the usual way.
48. Subject to Rule 47, any Individual Member on whom a Notice is served under Rule 42 shall comply with it and the Committee may publish the fact that a Notice has been served pursuant to this Rule in such manner as it thinks fit and may send copies to such persons as it thinks fit, including the Insolvency Service, the issuer of the Bond in respect of that Individual Member, the Individual Member's partners or Employees and any person by whom the Individual Member was appointed to an Insolvency Appointment.
49. The Committee may in the name of the Association issue legal proceedings against an Individual Member for such relief as it considers appropriate for the protection of the public, or creditors or to compel compliance with any Notice issued under Rule 42 or otherwise.
50. Without prejudice to the Association's right to make any such application to the Court as it may think appropriate in all the circumstances any Individual Member whose Licence is withdrawn pursuant to Rule 35 or restricted pursuant to Rule 39 shall not make any application to the Court (whether under Section 108 of the Insolvency Act or otherwise in connection with his Insolvency Appointments) without first having given at least five business days' notice to the Secretary of his intention to make such application.

### **Notice of Decisions**

51. Where the Committee intends to make an Order
- a) not to grant or not to renew a Licence; or
  - b) to withdraw a Licence pursuant to Rule 35; or
  - c) to impose restrictions and or conditions under Rule 38.
- it shall give written Notice of its decision to do so giving particulars of the grounds for so deciding and in the case of a decision under Rule 35, the date (which will be not less than 15 business days from the date of the written Notice) when withdrawal of the Licence should take effect.
52. A person on whom Notice is served pursuant to Rules 35 and 38 may within ten Business Days (or such longer period as the Committee may determine) after service of such Notice:

- a) make written representation to the Committee; and /or
- b) notify the Committee in writing that they wish to be given a reasonable opportunity to make oral representations to the Committee in which case he may be represented by counsel or by a solicitor or by an Individual Member of the Association and for such purposes the Secretary shall convene a meeting of the Committee as soon as reasonably practicable after receipt of such notification;

and in either case, the Committee shall have regard to such representations and may further consider the action it will take as appropriate, before making its final decision and confirming that an Order will or will not follow as appropriate.

- 53. Any decision of the Committee to withdraw a Licence pursuant to Rule 35 shall specify the date on which the decision takes effect such date to allow time for the Individual Member's appointments to be transferred. The Committee may, at its discretion, extend the time from which any decision takes effect, and shall notify the Individual Member accordingly.
- 54. When making any decision pursuant to Rule 35 (withdrawal of licence), the Committee may also determine a period from making that decision during which it will not entertain any application from that person for the grant or renewal of a Licence.
- 55. Every Order of the Committee made pursuant to Rules 35 and 38 shall (subject to Rule 56) be published unless the Committee shall in its discretion otherwise determine.
- 56. There will be no publication of an order made prior to the expiry of the period permitted for an appeal to an Appeal Panel or (if Notice of appeal is duly given and the Appellant proceeds with the appeal) unless and until in the latter case, the Committee, having been ordered by the Appeal Panel to reconsider the matter and having done so, makes an Order pursuant to Rule 35 or a decision pursuant to Rule 38 and the time for an appeal against a new Order has passed.

**Appeal**

57. An Individual Member may appeal against a decision or Order of the Committee and an appeal (stating the grounds of appeal) shall be made in writing to the Secretary within fifteen Business Days of service of that decision.
58. Only with the leave of the Appeals Chair of the Disciplinary and Appeals Committee may an appeal be made pursuant to Rule 57 after the expiry of the period provided for in that Rule.
59. An application for leave pursuant to Rule 58 shall be made in writing and shall give full reasons for the application and the circumstances giving rise to the delay.

**Return of Licence**

60. Each Licence issued by the Association shall remain the property of the Association and the Individual Member to whom it is issued shall, upon written demand by the Secretary, return it to the Office, unless during the currency of a Licence it is withdrawn or suspended by virtue of these Rules in which case such Individual Member shall forthwith (without the need for any demand by the Secretary) deliver it up to the Secretary.
61. Upon his permanent retirement from practice as an Insolvency Practitioner an Individual Member shall return their Licence to the Secretary.

**Debt Relief Orders**

62. In this Rule the following additional expressions shall have the following respective meanings: -
  - a) Approved Intermediary: an individual for the time being approved by a competent authority to act as an intermediary between a person wishing to make an application for a Debt Relief Order and the Official Receiver;
  - b) Debt Relief Order: an order made by the Official Receiver under Part 7A of the Insolvency Act;
63. Subject to the provisions of Part 7A of the Insolvency Act an Individual Member of the Association or an individual who is an Affiliate (and who works for an Insolvency Practitioner holding a current and valid Licence issued by the Association) shall be qualified to act as an Approved Intermediary if he is approved by the Association to do so.
64. The Committee may grant approval on an application made by an Individual Member or Affiliate if it appears to the Committee (taking account of any criteria specified under Part 7A of the Insolvency Act) that the individual is a fit and proper person to act as an Approved Intermediary. Where such an application is received from the holder of a current and valid Licence, the Secretary will act on behalf of the Committee to approve the application, unless the Secretary considers, in consultation, if they so choose, with the Chair, that the application should be considered by the Committee.
65. Rules 20, 23 and 24 shall apply to the consideration by the Committee of the granting/renewal of Approved Intermediary status as they apply in relation to the granting/renewal of Licences, having regard to the obligations and restrictions under Part 7A of the Insolvency Act. The approval by the Committee on behalf of the Association

shall remain in force only for the duration of the membership of the Individual Member or Affiliate of the Association and must be renewed when the membership is renewed.

66. Where Approved Intermediary status has been granted such status may be restricted or withdrawn by operation of the Rules. The procedure for doing so shall follow the process specified in Rule 38 concerning the restriction/withdrawal of a Licence, adapted as appropriate. That procedure shall be instituted if circumstances exist in relation to an Approved Intermediary which requires the Association to withdraw approval.
67. If an Individual Member or Affiliate who is an Approved Intermediary request or agrees that approval by the Association shall be withdrawn, the Committee will withdraw the status of Approved Intermediary. The Association is required to withdraw such status if it becomes clear to the Association that the individual:
- a) was ineligible when approval was granted;
  - b) has become ineligible for approval;
  - c) is at any time not or no longer a fit and proper person to be an Approved Intermediary;
  - d) has failed to comply with any provision of, or made under, Part 7A of the Insolvency Act;
  - e) provided any false, inaccurate or misleading information to the Association.

### **Northern Ireland (NI)**

68. An Individual Member who holds an Insolvency Licence shall be permitted to act as an Insolvency Practitioner under the NI Order if he also holds a current and valid Northern Ireland Licence issued by the Association or an authorisation issued by any other professional body recognised by the Department of Economic Development under the NI Order or an authorisation issued by a competent authority under Article 351 of the NI Order.
69. These Rules shall apply in all respects to a NI Licence with any reference to a Licence being construed as a reference to a NI Licence and with any reference to the Insolvency Act or provision of or regulation made under the Insolvency Act being construed as a reference to the NI Order or the corresponding provision of or regulation made under the NI Order.

### **Service of Notices**

70. Any Notice or document required to be served under these Rules may be served electronically at an electronic address which the intended recipient has notified to the Association or has customarily used to communicate with the Association, personally or by first class post at the last known address appearing in the register of Members in accordance with Article 15.2 or in such other manner as may be agreed with the recipient. Where documents are served electronically, service is deemed to have been effected at 9.00 am on the next business day after the document was sent. Where documents are served by post, service is deemed to have been effected 48 hours after posting for the purposes of these Rules.