



# Special Operations

**T**HERE has been much debate in and around the insolvency profession about specialisation and in particular the government's new proposals for licensing insolvency practitioners (IPs). These are being introduced in the deregulation Bill currently working its way through the parliamentary process. If the present timetable holds, the new provisions will be in place by April.

So, what are the new arrangements, what are the issues, who is affected, and do the changes make any difference to creditors?

## PARTIAL AUTHORISATION

The new measures introduce what some have referred to as partial authorisation. In essence they provide that an IP can become licensed to undertake personal (only) or corporate (only) insolvency assignments, rather than both as per the current licensing regime. The new system will allow the present regulators to issue partial licences if they choose to do so in response to a demand from applicants, subject to any necessary amendments to the memorandum and regulations governing licensing arrangements agreed with the Insolvency Service (part of the department for Business Innovation and Skills).

## ENTRY STANDARDS

Some in the profession have argued that this risks diluting the value of the qualification and in turn the reputation of IPs. Some of that debate revolves around the quality of advice given to insolvent persons (personal and corporate), and the ability of those only partially licensed to be able to advise on areas outside of their specialised area.

The regulators and other interested parties are now engaged in discussion about how best to implement the changes, and that includes setting appropriate entry examinations – adapting the present insolvency exams to accommodate the new regime. That is likely to involve a

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requirement for applicants to sit a general paper as well as a chosen specialist one, with the former designed to test knowledge of insolvency across the spectrum of personal and corporate insolvency types.

New style exams could be in place for 2016, with transitional arrangements to be considered in the meantime.

## MARKET NEEDS

The separate licensing to some extent reflects the reality of the modern insolvency market place. Some firms (particularly larger firms) undertake very little non-corporate work, whereas the personal debt market is served mostly (in terms of highest volumes) by companies set up to focus on just personal insolvency debt solutions. Separate or partial licensing mirrors how the insolvency world has grown and permits those who specialise, or wish to do so, to qualify in their chosen area. The demand is difficult to predict, but the IPA's survey of its members suggested that some firms envisage an interest from those operating in these specialist environments who wish to work their way through the qualification route to authorisation.

## REGULATION

The IPA takes the view that we will meet the demand if there is a call for the new licences. The costs of regulating partial licence holders will be no greater than for full licence holders. Arguably the risks from a regulatory point of view are lower. In some respects, the new arrangements reinforce the current ethical principles around competence – requiring IPs to take on only those cases in which they have sufficient experience and /or expertise.

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## AFFECTED NUMBERS

Arguably those most directly affected are the individuals and company directors who will be taking advice from, and passing instructions to, partial licence holders. They need to be able to place their faith in the quality of the IP's training and know that any IP is monitored to the same standard. It is the job of the regulators to make sure that remains the case.

Some debtors may be referred to another IP for other assignments. So for example, a corporate specialist advising a company director about his incorporated business may find the director has personal (consumer) debts, and in respect of his personal situation will refer the person to another IP. That may avoid some potential conflicts, but in any event is not so different from the specialisation we encounter regularly in other walks of life, e.g. the health service.

What about creditors? The test here is surely one that takes us back to the question of competence. Creditors will know that the IP is one operating within his specialist sphere, and that may hopefully provide the reassurance that they need.

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