

Insolvency Practitioner Authorisation Regulations

Approved by Council on 27 September 2018

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1. Introduction and application

1.1	These Regulations apply to all members of the IPA who are authorised by the IPA to take insolvency appointments, or are in the process of applying for authorisation.
1.2	<p>These Regulations should be read in conjunction with:</p> <ul style="list-style-type: none">• Membership and Authorisation Committee Rules ('M&A Rules');• Investigation Committee Rules ('IC Rules');• Disciplinary Committee Rules ('DC Rules');• Insolvency Practitioner Authorisation Criteria ('Authorisation Criteria');• Guide to Continuing Professional Education ('CPE Guidance')• IPA Articles of Association ('Articles');• Common Sanctions Guidance ('CSG'). <p>The above information sources document the rules and guidelines to be followed by insolvency licence holders/applicants and the applicable IPA regulatory committees. Click here for committee details.</p>
1.3	These regulations clarify how IPs are required to engage with the Committees/Secretariat in the course of conducting the IPA's regulatory activities and set out the expected consequences for an IP departing from those requirements.

2. Definitions

The definitions listed in the M&A Rules, IC Rules, DC Rules, Authorisation Criteria and the Articles apply to these Regulations, with the following additions:

Authorisation	Insolvency licence, enabling the holder to accept insolvency appointments.
Authorisation Criteria	Information issued from time to time by IPA Council, listing the requirements that must be met in order to be authorised by the IPA. Available from the IPA website.
CPE	Continuing Professional Education, referring to the number of hours undertaken in professional learning and development.
CPE Guidance	Information issued from time to time by IPA Council, listing the requirements on the IPA membership for gaining CPE.
CSG	Common Sanctions Guidance issued by the Insolvency Service from time to time in consultation with the insolvency regulators.
DC	The IPA Disciplinary Committee, which sits by tribunal to determine whether disciplinary action against an IPA member is required.
GDPR	General Data Protection Regulation, concerning the processing of personal information.
General bond	Cover for the assets under the control of appointment-taking IPs, across all appointments held, up to a set limit.
IC	The IPA Investigation Committee, responsible for considering complaints against IPA members, where applicable determining whether a member is liable to disciplinary action on a prima facie basis. The IC may invite a member to consent to a disciplinary order encompassing reprimand, fine and costs and may refer complaints to the DC.
IP	Insolvency Practitioner
M&A	The IPA Membership and Authorisation Committee, responsible for approving authorisation applications along with assessing the continuing fitness of authorised IPs. The M&A can take steps to restrict or withdraw insolvency authorisations when it is concerned about an IP's fitness. M&A is also able to restrict an authorisation without notice on an emergency basis in order to protect the public.

3. Applications for authorisation and authorisation renewal

3.1	Incomplete/Ineligible Applications For Authorisation
3.1.1	Upon receipt of a completed application form, the IPA Secretariat will conduct a review against the IPA Authorisation Criteria.
3.1.2	Where a received application form: <ul style="list-style-type: none"> • is incomplete; or • the requirements of the Authorisation Criteria have not been met <p>the Secretariat will contact the applicant to advise them and invite them to submit a revised application form or confirm that the application is withdrawn.</p>
3.1.3	If no response is received to any communication issued by the Secretariat under [3.1.2] by the deadline stipulated in that communication then the application as received will be referred to M&A at the next opportunity.
3.1.4	Any revised application received by the Secretariat will be referred to M&A at the next opportunity whether or not the matters identified at [3.1.2] have been corrected.

3.2	General Penalty Bond
3.2.1	Applicants for appointment-taking authorisation are required to provide a copy of their general bond with their application. Failure to provide a copy of the bond will constitute an incomplete application, under [3.1.2].
3.2.2	Once authorised, IPs with an appointment-taking authorisation must have a general bond in place at all times. Prior to the expiry of an existing general bond, an IP with appointment-taking authorisation must ensure that bond cover has been renewed if they are to continue taking appointments following expiry of their existing bond.
3.2.3	IPs with appointment-taking authorisation must send to the Secretariat, a copy of their general bond cover for a forthcoming period prior to expiry of their existing bond cover.
3.2.4	A failure to provide a copy general bond at [3.2.3] will be referred immediately to M&A by the Secretariat.
3.2.5	A failure to provide a copy general bond at [3.2.3] is grounds for an emergency licence restriction under the M&A Rules.

3.2.6	Notwithstanding any action taken by M&A following a referral under [3.2.4], the provision of a copy renewed or new general bond after the expiry of the existing bond will constitute grounds for a referral to the IC under the IC Rules and the Secretariat is obliged to make such referrals without exception.

4. Ongoing obligations for authorised insolvency practitioners

4.1	Cooperation with IPA Secretariat
4.1.1	<p>The IPA has limited resources and is often subject to competing priorities. It is vital that the Secretariat receives full cooperation from IPs in order that the IPA is able to comply with its obligations as a regulator and operate efficiently. IPs should also appreciate that the Secretariat may not, despite requesting prompt action by IPs or responses from IPs, be able to revert to IPs as quickly as both parties would like in some instances due to competing priorities.</p>
4.1.2	<p>IPs are required to respond promptly to communications issued by the IPA Secretariat and within the timeframes specified. If an IP is unable to respond to a communication for legitimate reasons, then they must contact the Secretariat to agree an extension. Where an extension is not agreed in writing then the original deadline must be observed.</p>
4.1.3	<p>Subject to [4.1.4], a failure by an IP to respond to the IPA Secretariat by the deadline set in relation to any matter will constitute grounds for a referral to the IC under the IC Rules and the Secretariat is obliged to make such referrals without exception. In the event of a prima facie case finding, the IC may refer to the CSG provisions regarding a failure to respond to communications when considering an appropriate sanction. The provision of a response by the IP after the deadline set will not remove the requirement to refer the matter to the IC but may be taken into account as mitigation by the IC when determining what action to take following a prima facie case finding. Without prejudice to CSG provisions, the IC may calculate any fine with reference to the number of days past the deadline that the IP response is/was overdue.</p>
4.1.4	<p>Subject to the processes set out elsewhere in these regulations and in the M&A Rules and IC Rules, no more than one follow up communication will be issued to an IP by the Secretariat, at its discretion, allowing an IP a maximum of 10 additional business days to respond and extending the deadline for the purposes of [4.1.3].</p>
4.1.5	<p>Subject to the processes set out elsewhere in these regulations and in the M&A Rules and IC Rules, any failure to:</p> <ul style="list-style-type: none"> • respond to regulatory notices issued under the M&A Rules; or • respond to disciplinary notices issued under the IC Rules; or • submit to processes under the M&A Rules or IC Rules; or • comply with the terms of any order issued by the M&A, IC or DC, including settlement of fine and/or costs due <p>will constitute grounds for an emergency licence restriction under the M&A Rules pending further consideration by M&A in accordance with the M&A Rules.</p>

4.1.6	Any emergency restriction, including under [4.1.5] may result in a targeted visit to the IP being ordered by M&A, at the IP's cost. Regardless of any action to remedy the matter(s) that gave rise to the emergency restriction, in the event of a targeted visit being ordered by M&A, the restriction will not be lifted by M&A unless it is satisfied with the results of the targeted visit.
4.1.7	The failure by an IP to comply with a written undertaking or declaration provided to the IPA or any of its committees or Secretariat will constitute grounds for a referral to the IC under the IC Rules.
4.1.8	IP behaviour and/or communications considered by the Secretariat to be harassment or threatening violence toward any person including IPA employees and IPA Committee/Council members will be reported to the police in addition to being referred to the IC.

4.2	Changes in contact information
4.2.1	<p>IPs are responsible for ensuring that all contact details held by IPA are current and that IPA is informed of changes in circumstances including but not limited to:</p> <ul style="list-style-type: none"> • Changes in name • Changes in postal address • Changes in email address • Changes in telephone number • Intra firm movements
4.2.2	Unless by some other written arrangement between an IP and the IPA, the workplace address held by the IPA is the address for service of regulatory/investigatory/disciplinary notices and communications. Such notices and communications issued to the address for service will be deemed received by the IP without exception and deadlines/timetables therein will not be varied because of a delay in an IP receipt caused by a failure to update the contact information held by the Secretariat.
4.2.3	Any increased cost suffered by the IPA, whether in time spent or expenses incurred by the Secretariat/Regulatory Committees resulting from a failure to update contact details will be recovered from the IP where applicable.

4.3	Monthly Bordereau Submission
4.3.1	An IP must submit to the IPA Secretariat, a copy of all submissions to their bond provider confirming new appointments accepted, appointments where the IP has received their release and changes to pre-existing bond cover.

4.3.2	The information at [4.3.1] must be received by the IPA Secretariat by close of business of the 20 th calendar day following the end of the month to which the submission relates.
4.3.3	Any failure to provide the information at [4.3.1] by the deadline at [4.3.2] will be treated as a failure under 4.1.3, constituting grounds for a referral to the IC.
4.3.4	An ongoing failure to provide the information at [4.3.1] will be treated in accordance with [4.1.5].

4.4	Continuing Professional Education
4.4.1	As part of their authorisation renewal application, IPs are required to declare that they have satisfied the minimum CPE requirement as set out in the CPE Guidance.
4.4.2	Any false declaration with reference to [4.4.1] will be treated in accordance with [4.1.7].

4.5	GDPR
4.5.1	As a regulator, the IPA will hold personal data about its members, including IPs, and is subject to the requirement to provide access to that data upon request under the Data Protection Act 2018.
4.5.2	The requirement at [4.5.1] is subject to paragraph 45(4) of the Data Protection Act 2018, which provides an exemption to do so in order to avoid obstructing an investigation.
4.5.3	The exemption at [4.5.2] will be relied upon where necessary in relation to a request from an IP under [4.5.1], including but not limited to situations where there is: <ul style="list-style-type: none"> • any open complaint file in relation to that IP; or • any ongoing regulatory matter being considered by M&A in relation to that IP.

5. Insolvency Practitioner Monitoring

5.1	Monitoring Inspection Visits
5.1.2	IPs will be subject to periodic inspection visits by IPA personnel at the IPs' premises either on a routine basis as part of a normal monitoring cycle or on an extraordinary basis, where M&A has ordered a targeted visit.
5.1.3	Failure to respond to a request for information required by the Secretariat prior to any visit at [5.1.2] will be treated in accordance with [4.1.3].
5.1.4	<p>A failure to submit to or cooperate with the inspection visit process, including but not limited to:</p> <ul style="list-style-type: none"> • An ongoing or repeated failure to provide information requested by the Secretariat prior to any visit; or • A refusal to allow access to an IP's premises or files; or • Attempts to frustrate or delay the process <p>will constitute grounds for an emergency licence restriction under the M&A Rules pending further consideration by M&A in accordance with the M&A Rules.</p>
5.1.5	Reports prepared following an inspection visit will be issued to an IP for comments and a deadline for the receipt of such comments will be set. There is no requirement for an IP to respond unless where stipulated within the report. However, M&A will expect to be able to understand from an IP their explanation for any matters of concern raised at an inspection visit along with their intentions for correcting such matters.
5.1.6	Upon receipt of any response from an IP further to [5.1.5], the report and any response will be reviewed by the Secretariat in advance of consideration by M&A.
5.1.7	If the Secretariat identifies as part of a review under [5.1.6], matters that require referral to the IC under the IC Rules, then a complaint file will be opened and the IP contacted accordingly.

5.2	Self-certification
5.2.1	IPs will be subject to periodic requests by the Secretariat to undertake reviews of their files and communicate the results to the Secretariat, either on a routine basis as part of a normal monitoring cycle or on an extraordinary basis, where M&A has ordered that such reviews should be undertaken by an IP.

5.2.2	Failure to provide information further to a request from the Secretariat under [5.2.1] will be treated in accordance with [4.1.3].
5.2.3	An ongoing or repeated failure to provide information further to a request from the Secretariat under [5.2.1] will constitute grounds for an emergency licence restriction under the M&A Rules pending further consideration by M&A in accordance with the M&A Rules and [4.1.6] may be applied.
5.2.4	Upon receipt of a response from an IP to a request under [5.2.1], the Secretariat will review the information received. Where applicable that review may take place as part of preparation for an inspection visit.
5.2.5	Where the Secretariat identifies as part of a review under [5.2.4], matters that require referral to the IC under the IC Rules, then a complaint file will be opened and the IP contacted accordingly.

6. Complaints

6.1	Complaint Enquiries
6.1.1	Complaints are normally received from the Insolvency Service Complaints Gateway but can be received directly from a complainant in cases where the concern/IPA member is not covered by the Gateway.
6.1.2	All complaints are evaluated and enquiries may be made to establish whether any disciplinary liability may attach to the issue(s) raised. When making enquiries of an IP, the Secretariat will set a deadline for a response.
6.1.3	A failure to respond to such enquiries will be treated in accordance with [4.1.3], with an additional complaint being raised by the Secretariat.
6.1.4	Where the Secretariat does not receive a response to its enquiries, it will proceed on the basis that a complainant's submissions, whether or not evidenced, are an accurate account of the applicable events, concluding as necessary as to whether there is any liability to disciplinary action.

6.2	Complaint Investigations
6.2.1	Where an IP is considered by the Secretariat to be potentially liable to disciplinary action, the Secretariat will compose one or more allegations for an IP to answer and the IP will be given an opportunity to provide any final representations in accordance with the IC Rules, prior to IC consideration.
6.2.2	If no response is received to final representations requested under the IC Rules and [6.2.1], then a referral to the IC will proceed without further confirmation to the IP.
6.2.3	The IC will take into account in the calculation of any fines and cost orders the level of cooperation that the IP has provided in the course of the complaint investigation. Failure to cooperate will be treated as an aggravating factor and fines/costs increased accordingly.
6.2.4	<p>If an IP fails to provide without a reasonable explanation, information in response to a complaint until a late stage that could have been provided sooner, causing additional work for the Secretariat and/or processing time at the IC, then:</p> <ul style="list-style-type: none"> • any cost order will increase accordingly; and/or • a new complaint may be opened in relation to a failure to respond properly to the Secretariat/IC.

6.2.5	The IC Rules provide for an IP being allowed by the IC to attend a meeting of the IC, at the IC's discretion. This is by exception and the IC expects all responses to complaints to be in writing and evidence to be submitted in documentary form. Where a prima facie case has been found, all submissions in relation to sanction must be in writing and requests to address the IC at that stage will not be granted.
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6.3	Joint Appointments
6.3.1	Where complaints are made about an insolvency appointment where two IPA IPs are appointed, the Secretariat will make enquiries to establish which IP has responsibility for the issue(s) complained about.
6.3.2	In circumstances where IPs have equal responsibility for the conduct of an insolvency appointment and the issue(s) complained about, the complaint will be processed against all appointed IPs and all IPs will be asked to answer any allegation(s).
6.3.3	Where there is any disagreement between IPs as to who has responsibility for the issue(s) complained about, the Secretariat will decide who to process a complaint against.
6.3.4	Occasionally complaints will be made against IPs holding joint appointments where the IPs are authorised by different Recognised Professional Bodies. In those circumstances, the Insolvency Service Complaints Gateway may refer complaints to all bodies involved and the bodies will decide between them which will be responsible for the primary investigation of the complaint.

6.4	Sanction
6.4.1	The IC will refer to the Common Sanctions Guidance when considering the action to take in accordance with the IC Rules following a prima facie case finding.
6.4.2	The IC will take into account an IP's regulatory and disciplinary record when considering aggravating and mitigating factors.
6.4.3	Where complaints are referred under [5.1.7] or by the M&A then it will be taken into account that the complaint was generated from within the IPA.

6.5	Complaints Against Members Of IPA Committees
6.5.1	Complaints about IPA committee members will not be processed any differently by the Secretariat, with the exception of complaints against members of regulatory committees

	that may necessitate additional reporting to the IC, consultation between the Secretariat and IC or advice to the Secretariat in order to preserve the integrity of the processes.
6.5.2	The Secretariat will, in its discretion, report the details of complaints received about IPA committee members to the IPA President, Vice President, Deputy Vice President and IPA Council.
6.5.3	In the event of a report under [6.5.2], IPA Council may require the IPA committee member to cease IPA activity until the complaint has been concluded.
6.5.4	In the event that an IPA committee member fails to cooperate with the IPA Secretariat, including responding properly to complaint enquiries, a report will be made in accordance with [6.5.2] and IPA Council may remove the IPA committee member concerned from the committee(s) upon which they serve.

7. Firm representatives, other intermediaries and external compliance providers

7.1	Firm Representatives And Other Nominated Representatives
7.1.1	IPs may nominate another person or persons to respond to regulatory matters on their behalf.
7.1.2	In order for the Secretariat to issue or copy communications addressed to an IP to a third party, including individuals at their firm, written instruction must be received from the IP.
7.1.3	An IP remains responsible for any communication issued on their behalf.
7.2	Compliance Consultants
7.2.1	Further to [7.1.3], IPs remain responsible for any communication or response to a regulatory matter prepared by third party consultants and IPs are expected to review and approve any work undertaken by such consultants on their behalf.