

THE  
INSTITUTE OF  
CHARTERED  
ACCOUNTANTS  
OF SCOTLAND



# Insolvency Permit Byelaws

*Approved by Council on 12 March 2010*

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## SCOPE AND DEFINITIONS

1. These Bye-laws apply to applicants for, and to holders and former holders of, Insolvency Permits issued by the Institute under the Insolvency Act 1986 as from time to time amended, consolidated, re-enacted or replaced. They are issued by the authority of the Council and come into force on {insert} .
2. Unless the context otherwise requires, words and expressions defined in the Rules of the Institute have the same meanings in these Bye-laws. The following definitions apply to these Bye-laws:

**“Insolvency Permit”** means a permit to act as an Insolvency Practitioner as defined in the Insolvency Act 1986, or any Statutory Instruments or Regulations made thereunder, as amended, restated, consolidated, re-enacted or replaced from time to time, issued annually in accordance with the provisions of Byelaws made under Rule 19A, and for the time being in force.

**“Practising Certificate”** means a Practising Certificate issued annually by the Institute and for the time being in force.

3. In these Bye-laws, unless the context otherwise requires, the following expressions have the meanings assigned to them:

**“the Act”** means the Insolvency Act 1986 as from time to time amended, consolidated, re-enacted or replaced.

**“Appeal Tribunal”** means the Appeal Tribunal appointed under Rule 74 of the Rules.

**“Applicant”** means an individual applying for an Insolvency Permit under these Bye-laws, including an Initial Applicant where the context of a particular Bye-law permits.

**“The Committee”** means the Insolvency Permit Committee appointed by the Council under Rule 19A (3).

**“Initial Applicant”** means an individual applying for an Insolvency Permit under these Bye-laws who does not hold an equivalent Insolvency Permit from another Recognised Professional Body or authorisation from the Secretary of State Department for Business, Enterprise and Regulatory Reform, and who has not held an Insolvency Permit or an equivalent from another Recognised Professional Body or from the Secretary of State in the five years prior to the date of application.

**“The Institute”** means the Institute of Chartered Accountants of Scotland.

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**“Recognised Professional Body”** means a body declared by order of the Secretary of State Department for Business, Enterprise and Regulatory Reform (or its equivalent) to be a recognised professional body for the purposes of the Act.

**“Rules”** means the Rules of The Institute.

**“Secretary”** means the Secretary of the Institute or any person acting in such capacity by the direction of the Council.

#### **INTERPRETATION**

4. The Interpretation Act 1978 shall apply to the interpretation of these Bye-laws as it applies to the interpretation of an Act of Parliament.

#### **CURRENCY AND VALIDITY OF INSOLVENCY PERMITS**

5. Insolvency Permits are valid for the calendar year, or the balance of the calendar year, for which they are issued. They may be extended under Bye-law 58 or Bye-law 60 below.
6. Insolvency Permits must be applied for annually after initial grant. Annual applications should be submitted in the form and by the time specified by the Committee each year.

#### **INSOLVENCY PERMIT COMMITTEE**

7. Subject to these Bye-laws, the Committee shall have discretion both as to the nature of the matters taken into account and as to its sources of information in exercising its powers under these Bye-laws.
8. In terms of Rule 53 of the Institute, the quorum for the Insolvency Permit Committee shall be three, one of whom must be a public interest member but the majority of those present must not be public interest members.
9. The Committee shall be responsible and have the requisite powers for:
  - a. granting applications for Insolvency Permits with or without restrictions and/or conditions;
  - b. rejecting applications for Insolvency Permits;
  - c. imposing restrictions or conditions on Insolvency Permits;
  - d. withdrawing Insolvency Permits ;
  - e. suspending Insolvency Permits ;
  - f. accepting or rejecting the surrender of Insolvency Permits;
  - g. monitoring the continuing fitness and propriety of Insolvency Permit holders by instructing monitoring or other quality review or inspection visits;
  - h. considering and determining on the results of monitoring or other quality review or inspection visits and making appropriate orders on the Insolvency Permit holder;

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- i. considering matters referred to it by the Investigation and Professional Conduct Enforcement Committee of the Institute concerning the conduct of any Insolvency Permit holder;
  - j. recovering from Insolvency Permit holders and former Insolvency Permit holders any cost incurred in seeking to bring insolvency appointments to an acceptable conclusion in cases where an Insolvency Permit has been surrendered, withdrawn or not renewed for any reason; and
  - k. recovering from Insolvency Permit holders or Applicants any contribution towards costs arising from their application for or tenure of an Insolvency Permit as determined in accordance with Bye-law 26 below.
10. In discharging its functions under Bye-law 9 above the Committee in its discretion may have regard to any factors that it believes to be relevant, but shall have regard to the factors set out in Bye-laws 12 to 24 below or, as it sees fit, to any investigation, pending disciplinary proceedings or disciplinary finding concerning the insolvency work undertaken by the Applicant or Insolvency Permit holder, including work which has been delegated to a fellow principal, employee or agent.
11. For the purposes of discharging any of its responsibilities under these Bye-laws, the Committee or its duly appointed agent shall have the power to:
- a. require Insolvency Permit holders or former Insolvency Permit holders to disclose or submit such information, including books, papers, documents or other records as it considers necessary;
  - b. approach the firm of which Applicants for an Insolvency Permit, Insolvency Permit holders or former Insolvency Permit holders are or were a principal or employee for information that is relevant to an Insolvency Permit or to an application for an Insolvency Permit; and
  - c. review such books, papers, documents or other records; and initiate any other investigations which it considers to be necessary.
12. Applicants for an Insolvency Permit, Insolvency Permit holders and former Insolvency Permit holders shall:
- a. co-operate fully with the Committee in any review or investigation required under Bye-law 11 above and shall in particular respond to any questions or requests for production of further documents or information made by the Committee or its duly appointed agent within any time limit set by the Committee or its duly appointed agent;
  - b. submit to monitoring or other quality review or inspection visits by the Institute or its agent at such frequency or on such occasions as the Committee may decide and abide by any resulting orders; and
  - c. use their best endeavours to procure the co-operation of the firm of which they are or were a principal or employee in meeting their obligations or complying with any request made by the Committee or its duly appointed agent under these Bye-laws.

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#### **CHANGE OF CIRCUMSTANCES**

13. It shall be the duty of each Insolvency Permit holder to ensure that the Insolvency Permit Committee is kept informed of any changes of circumstance which relates to information provided to the Committee during the preceding 12 month period or since the submission of the Insolvency Permit holder's most recent application for an Insolvency Permit.

#### **ELIGIBILITY TO HOLD AN INSOLVENCY PERMIT**

14. In terms of Rule 19A (2) members of the Institute are not eligible to hold Insolvency Permits unless they hold practising certificates.

Applicants who are members of a Recognised Professional Body or authorised by the Secretary of State, Department for Business, Enterprise and Regulatory Reform shall require to provide evidence of their eligibility to apply.

15. Applicants who hold an Insolvency Permit that is not subject to restrictions, conditions or suspension under these Bye-laws or preceding Bye-laws at the time of their application are eligible for an Insolvency Permit for the succeeding year if they satisfy the criteria set out in Bye-law 20 below.
16. Applicants who have never held an Insolvency Permit (initial applicants) are eligible for an Insolvency Permit for the balance of the year in which application is made if they satisfy the criteria set out both in Bye-law 20 and in Bye-law 21 below.
17. Applicants who are currently eligible members of another Recognised Professional Body or authorised by the Secretary of State, Department for Business, Enterprise and Regulatory Reform are entitled to apply for an Insolvency Permit for the balance of the year in which application is made if they satisfy the criteria set out both in Bye-law 20 and in Bye-law 22 below.
18. Applicants who hold an Insolvency Permit that is subject to restrictions or conditions under these Bye-laws or under earlier versions of these Bye-laws are eligible for an Insolvency Permit for the succeeding year if they satisfy the criteria set out both in Bye-law 20 and in Bye-law 23 below.
19. Applicants who have held an Insolvency Permit but whose Insolvency Permit has, at the time of their application, been surrendered, suspended or withdrawn under these Bye-laws or preceding Bye-laws are eligible for an Insolvency Permit for the succeeding year if they satisfy the criteria set out both in Bye-law 20 and in Bye-law 24, and subject to Bye-law 57 below.

#### **CRITERIA TO BE SATISFIED BY ALL APPLICANTS FOR AND HOLDERS OF INSOLVENCY PERMITS**

20. All applicants for the grant of an Insolvency Permit shall:

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- a. satisfy the Committee that they are fit and proper persons to act as Insolvency Practitioners.

In assessing an Applicant's fitness and propriety, the Committee may have regard to *inter alia* the Applicant's compliance with (1) the Institute's Code of Ethics, (2) any requirements or conditions imposed by the Committee and/or (3) the requirements set out in Statutory Instrument 2005/524 Regulations 6(a)-(f) which provide as follows:

*“(a) whether the applicant has been convicted of any offence involving fraud or other dishonesty or violence;*

*(b) whether the applicant has contravened any provision in any enactment contained in the insolvency legislation or in subordinate legislation made under any such enactment or any provision of the law of a country or territory outside Great Britain which corresponds to such legislation;*

*(c) whether the applicant has engaged in any practices in the course of carrying on business appearing to be deceitful or oppressive or otherwise unfair or improper, whether unlawful or not, or which otherwise cast doubt upon his probity or competence for discharging the duties of an insolvency practitioner;*

*(d) whether, in respect of any insolvency practice carried on by the applicant at the date of or at any time prior to the making of the application, there were established adequate systems of control of the practice and adequate records relating to the practice, including accounting records, and whether such systems of control and records have been or were maintained on an adequate basis;*

*(e) whether the insolvency practice of the applicant is, has been or, where the applicant is not yet carrying on such a practice, will be, carried on with the independence, integrity and the professional skills appropriate to the range and scale of the practice and the proper performance of the duties of an insolvency practitioner;*

*(f) whether the applicant, in any case where he has acted as an insolvency practitioner, has failed to disclose fully to such persons as might reasonably be expected to be affected thereby circumstances where there is or appears to be a conflict of interest between his so acting and any interest of his own, whether personal, financial or otherwise, without having received such consent as might be appropriate to his acting or continuing to act despite the existence of such circumstances.”*

- b. demonstrate knowledge of and experience in insolvency practice to the extent which the Council shall from time to time lay down in guidelines as being adequate, having regard to any requirement of the Secretary of State, Department for Business and Enterprise and Regulatory Reform;
- c. satisfy the Committee that they have maintained their competence in insolvency practice and have complied with the Institute's requirements as to Continuing Professional Development and satisfied Statutory Instrument 2005/524 Regulation 7;
- d. undertake to comply with the bonding requirements of the Act or any regulations made under the Act;

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- e. undertake to comply with all applicable standards issued by the Institute including, but not confined to, Statements of Insolvency Practice;
- f. undertake to supervise staff and to ensure compliance by staff with all applicable legislation and professional standards including but not confined to Statements of Insolvency Practice; and
- g. undertake to make funds available for the completion of open cases, including any costs associated with the transfer of such cases to another insolvency practitioner, in the event of the Insolvency Permit being surrendered, withdrawn or not renewed for any reason.
- h. undertake to advise the Committee that they have become insolvent or made bankrupt by sequestration, or have entered into a Trust Deed, Individual Voluntary Arrangement or any equivalent insolvency procedure (including a debt arrangement scheme or composition with creditors) in a personal capacity or as a director of an insolvent company or as trustee or in any other capacity or office;
- i. acknowledge that any relevant order under the Mental Health Act 2007 or Adults with Incapacity Act 2001, to which they are subject, must be intimated to the Committee;
- j. hold adequate professional indemnity insurance equivalent in terms of the Institute's requirements in the Professional Indemnity Insurance Byelaws in force at the time, and provide evidence of the same if required to do so to the Committee.

**ADDITIONAL CRITERIA TO BE SATISFIED BY INITIAL APPLICANTS FOR INSOLVENCY PERMITS**

21. Initial applicants for the grant of an Insolvency Permit shall also:
- a. have passed such examinations acceptable to the Council as are specified from time to time by the Council; and
  - b. undertake to comply with the bonding requirements of the Act or any regulations made under the Act and to make all relevant lodgements with and returns to the Institute.

**ADDITIONAL CRITERIA TO BE SATISFIED BY APPLICANTS FOR INSOLVENCY PERMITS WHO ARE CURRENTLY AUTHORISED BY ANOTHER RECOGNISED PROFESSIONAL BODY OR BY THE SECRETARY OF STATE, DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM**

22. Applicants who are currently authorised by another Recognised Professional Body or by the Secretary of State Department for Business, Enterprise and Regulatory Reform shall also:
- a. satisfy the Committee that they are so authorised; and
  - b. satisfy the Committee that they are in good standing with the Recognised Professional Body in question or with the Secretary of State, and that either:
    - i. there are no restrictions or conditions attached to their current authorisation;
    - or

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- ii. it would be appropriate for the conditions or restrictions attached to their current authorisation to be applied to any Insolvency Permit granted by the Institute; and
- c. undertake to secure the assignation or equivalent process of their bonds in favour of the Institute; and
- d. undertake to comply with the bonding requirements of the Act or any regulations made under the Act and to make all relevant lodgements with and returns to the Institute.

**ADDITIONAL CRITERIA TO BE SATISFIED WHERE THE EXISTING PERMIT IS SUBJECT TO RESTRICTIONS OR CONDITIONS**

23. This Bye-law applies to Applicants whose existing Insolvency Permit is subject to restrictions or conditions. Applicants subject to this Bye-law shall satisfy the Committee as appropriate that:
- a. the conditions attached to their Insolvency Permit have been met or will be met within the timescale agreed with the Committee;
  - b. the restrictions attached to their Insolvency Permit have been complied with.

**ADDITIONAL CRITERIA TO BE SATISFIED BY APPLICANTS FOR INSOLVENCY PERMITS WHERE A PREVIOUS INSOLVENCY PERMIT HAS BEEN SURRENDERED OR WITHDRAWN**

24. This Bye-law applies to Applicants who do not hold an Insolvency Permit because they have surrendered an Insolvency Permit or because a previous Insolvency Permit has been withdrawn. Applicants subject to this Bye-law shall satisfy the Committee that:
- a. the issues giving rise to the surrender or withdrawal have been resolved;
  - b. arrangements acceptable to the Committee have been put in place to ensure that the issues giving rise to the surrender or withdrawal, or similar issues, will not recur in the future;
  - c. all appropriate and practicable restitution has been made; and
  - d. there are no other open matters calling in question the fitness and propriety of the applicant to hold an Insolvency Permit.

Bye-law 57 below may apply.

**PERMIT FEE AND OTHER CHARGES**

25. Insolvency Permit holders shall pay, on initial grant and annually thereafter, a permit fee, the amount of which shall be determined by the Council from time to time.

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26. The Committee may, in its discretion, require Insolvency Permit holders or applicants for an Insolvency Permit to pay such amount as it considers reasonable towards the costs arising from their applications for or tenure of Insolvency Permits which have been incurred by the Institute in discharging any of its functions as a Recognised Professional Body under the Act (other than triennial insolvency monitoring visits), including, without limitation, any costs incurred in carrying out inspections of records under the Act or regulations made thereunder or any costs incurred by the Committee or its duly appointed agent in discharging its responsibilities under these Bye-laws.

#### **SURRENDER OF PERMIT**

27. The Committee may accept the surrender of an Insolvency Permit at any time and on such conditions as it may determine. Where the surrender of an Insolvency Permit is accepted, the holder shall cease to be qualified to act as an Insolvency Practitioner with immediate effect unless the Committee decides otherwise in the public interest.

#### **WITHDRAWAL OF PERMIT**

28. The Committee shall have the power to withdraw an Insolvency Permit at any time if:
- a. it considers that the Insolvency Permit holder no longer meets one of the eligibility requirements in Bye-laws 14 to 24 above;
  - b. it considers that the Insolvency Permit holder is not complying with the Professional Indemnity Insurance Bye-laws to a material and prejudicial extent;
  - c. it considers that the Insolvency Permit holder is not complying with the Clients' Money Regulations, Statutory Instrument 2007/2157 to a material and prejudicial extent;
  - d. the Insolvency Permit holder has persistently failed to pay the annual fees due or any charges or costs due under these Bye-laws within 30 days of serving the notice;
  - e. the Insolvency Permit holder has not paid in the time set any fines or costs ordered or imposed by any committee or tribunal of any Recognised Professional Body appointed under Chapter XII of the Rules – Discipline, Insolvency Etc;
  - f. it considers that the Insolvency Permit holder has persistently or blatantly failed to comply with any restriction or condition under Bye-law 31 below;
  - g. it considers that the Insolvency Permit holder has persistently failed to comply with any order or any other formal intimation or document issued by the Committee as a result of a monitoring visit conducted under these Bye-laws;
  - h. it considers that the Insolvency Permit holder has not complied with any other Bye-laws;
  - i. it considers that the continued holding of an Insolvency Permit may adversely affect creditors or any other interested persons;
  - j. it considers that the Insolvency Permit holder has failed to a material and prejudicial extent to instruct or supervise staff;
  - k. it considers that the Insolvency Permit holder has to a material and prejudicial extent breached an undertaking given on application for an Insolvency Permit;

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- l. it considers that the Insolvency Permit holder has materially misled or failed to disclose to the Committee any information or declaration which should have been given in an application for an Insolvency Permit, or has otherwise provided false, inaccurate or misleading information to the Committee or its duly appointed agent.
29. Where a decision to withdraw an Insolvency Permit has been confirmed following a hearing in terms of Bye-laws 37-42 and that decision is not appealed, or following a subsequent appeal that is not determined in favour of the Insolvency Permit holder, the withdrawal comes into effect as soon as the confirmation is notified to the Insolvency Permit holder and the Insolvency Permit holder whose Insolvency Permit is withdrawn under this Bye-law shall not act as an Insolvency Practitioner unless or until:
- a. the Committee decides to permit the individual concerned to continue to hold existing appointments, but not to transact in any way with the assets or liabilities of the cases concerned except under such supervision and on such terms and in such manner as the Committee or its appointed agent has determined; or
  - b. a new Insolvency Permit is granted.

#### **SUSPENSION OF PERMIT**

30. The Committee shall have the power to suspend an Insolvency Permit immediately for a period of not more than 30 days if it has grounds which in its view justify the belief that the continuation of the Insolvency Permit could be materially prejudicial to the public interest. An Insolvency Permit holder who is the subject of an order of suspension under this Bye-law shall be entitled to seek a hearing to appeal against such notice of suspension and shall not act as an Insolvency Practitioner unless the suspension order is cancelled or expires and no further order is made or the Committee determines otherwise in terms of Bye-law 31 below.

#### **RESTRICTION OF, OR IMPOSITION OF CONDITIONS ON, A PERMIT**

31. The Committee shall have the power to make any of the following orders in respect of any Insolvency Permit holder:
- a. that the grant of an insolvency permit may be conditional upon the outcome of any disciplinary procedure under the Rules to which an Applicant or Permit Holder is subject at the time of the Committee's consideration of his application for an initial grant or renewal.
  - b. that they shall not accept any further appointments as an Insolvency Practitioner until a date specified in the order, or until such steps as are specified in the order have been taken;
  - c. that, on or before a date specified in the order, they shall take such steps as are specified in the order;
  - d. any other order of a similar nature which it considers to be appropriate in the circumstances;
  - e. any combination of the above.

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## **DECISIONS OF THE INSOLVENCY PERMIT COMMITTEE**

32. Before making any decision the Committee shall have regard to the criteria to be satisfied by applicants for Insolvency Permits set out in Bye-laws 14 to 24 above.
33. Before making any decision the Committee may, at its discretion and with a view to clarifying any matters or obtaining additional information, inform an applicant or Insolvency Permit holder of those adverse factors foreseen as likely to be taken into account, and may afford the applicant or Insolvency Permit Holder an opportunity to make representations.
34. If the Committee is minded to make a decision not to grant an Insolvency Permit under Bye-law 9(b) above or to withdraw an Insolvency Permit under Bye-law 28 above or to restrict or impose conditions on an Insolvency Permit under Bye-law 31 above or to publish a decision under Bye-law 53 below or to treat an applicant for an Insolvency Permit as an Initial Applicant under Bye-law 57, or to extend an Insolvency Permit under Bye-law 62 below it shall forthwith inform the applicant or Insolvency Permit holder concerned in writing of its proposed decision and its reasons.
35. The proposed decision under Bye-law 34 above shall, unless it is varied or rescinded at or following a hearing under Bye-law 42 below or on appeal under Bye-law 44 below, become an order and, unless the Committee decides on a later date, come into effect:
  - a. in the absence of an application for a hearing under Bye-law 37 below, on the expiry of 14 days from the service of notice of the proposed decision on the applicant or Insolvency Permit holder; or
  - b. in the absence of an appeal in terms of Bye-law 43 below following a hearing, on the expiry of 14 days from the service of notice of the decision of the panel on the applicant or Insolvency Permit holder; or
  - c. immediately on a decision of the Appeal Tribunal affirming the proposed decision of the Committee or panel.

## **SERVING NOTICE**

36. A notice, order or any other formal document to be served under these Bye-laws will be delivered by registered post sent to the latest address notified to the Institute by the Insolvency Permit holder and service will take effect 2 business days after posting.

## **HEARING BEFORE IMPLEMENTATION OF A PROPOSED ADVERSE DECISION**

37. Within 14 days of the date of the service of a notice of a proposed adverse decision of the Committee (other than a notice of suspension under Bye-law 30 above or notice of a regulatory penalty under Bye-laws 47 below ) an applicant or Insolvency Permit holder may, by notice in writing to the Secretary, apply for a hearing. The notice must set out the grounds on which the application for a hearing is made.

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38. On receipt of an application for a hearing, the Committee shall set a date for the hearing and inform the applicant or Insolvency Permit holder accordingly.
39. An applicant or Insolvency Permit holder shall have the right to attend the hearing and to be represented legally or otherwise at the hearing, but shall give notice to the Committee of any intention to be represented and of the nature of that representation as soon as the decision to be represented has been taken, but in any event the notice shall be given no later than 5 working days before the hearing.
40. Hearings shall be held before the Committee (which shall include a sub-Committee appointed by the Convener). In accordance with the terms of Bye-law 9, at least one public interest member must be present, but public interest members must not be in the majority.
41. Before proceeding to undertake a hearing or before making any decision following a hearing, and with a view to clarifying any matters or obtaining additional information the Committee shall inform an applicant or Insolvency Permit holder of those adverse factors foreseen as likely to be taken into account and shall afford the applicant or Insolvency Permit holder a reasonable opportunity to make representations.
42. At any hearing, the Committee or appointed sub-Committee may affirm, vary or rescind the Committee's proposed decision that is the subject of the hearing and may substitute any other proposed decision or decisions under these Bye-laws as it thinks appropriate. The decision shall be communicated forthwith in writing to the applicant or Insolvency Permit holder.

#### **APPEAL**

43. An applicant or an Insolvency Permit holder may appeal against a decision of the Committee on the grounds specified in Rule 73(1)(i)-(iii). An appeal against a decision of the Committee, stating the grounds of the appeal, shall be made in writing to the Secretary within 14 days of service of that decision. On such notice of appeal the matter shall be referred to the Chairman of the Appeal Panel in terms of Rule 60 of the Rules.
44. The Appeal Tribunal may affirm, vary or rescind any decision of the Committee and may substitute any other decision as it thinks appropriate or may, if the Appeal Tribunal considers it appropriate, order that the Committee reconsider the matter and direct the Committee how to proceed. A decision of the Appeal Tribunal, other than an order to the Committee to reconsider the matter, shall be final.

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## **REGULATORY PENALTIES**

45. The Committee may, if it is satisfied that all the conditions set out in Bye-law 46 below are met, propose a Regulatory Penalty to the Insolvency Permit holder concerned.
46. The conditions precedent to the proposal of a Regulatory Penalty are that:
  - a. the Insolvency Permit holder is in breach of these Bye-laws or of the Professional Indemnity Insurance Bye-laws, the Clients' Money Regulations, the Quality Review Bye-laws or the Bye-Laws Governing Use of Description Chartered Accountants (a relevant breach) or of any relevant legislation; and
  - b. the breach does not of itself, by its nature or repetition, involve conduct calling in question the fitness and propriety of the Insolvency Permit holder concerned to hold an Insolvency Permit; and
  - c. the Insolvency Permit holder concerned accepts the fact of the breach.
47. The Committee shall determine the amount of the proposed Regulatory Penalty, and shall inform the former Insolvency Permit holder accordingly and give its reasons.
48. The Insolvency Permit holder concerned must respond to the proposal in writing within 14 business days of its service by the Committee, or the proposal will be held to have been withdrawn.
49. The Insolvency Permit holder may make representations to the Committee about the amount of the proposed Penalty, and the Committee shall take account of these representations and may confirm or vary the amount accordingly.
50. If the Insolvency Permit holder concerned accepts the proposed Regulatory Penalty, then the Regulatory Penalty is payable within 2 months of that acceptance.
51. If an Insolvency Permit holder to whom a proposal for a Regulatory Penalty has been made subsequently denies that a relevant breach has occurred or does not accept the proposal for a Regulatory Penalty or does not respond to the proposal for a Regulatory Penalty or does not meet the terms of the Regulatory Penalty, the Committee shall impose alternative sanctions under these Bye-laws or may refer the matter to the Investigation and Professional Conduct Enforcement Committee

## **PUBLICATION OF DECISIONS OF THE INSOLVENCY PERMIT COMMITTEE**

52. The Committee shall publish, in such manner as it sees fit, decisions to withdraw Insolvency Permits under Bye-law 28 that have not been reversed or modified on hearing or appeal.
53. If it believes that the public interest would be best served by publication, the Committee may publish, in such manner as it sees fit, decisions to accept the surrender of an Insolvency Permit under Bye-law 27 above or to suspend Insolvency Permits under Bye-

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law 30 above or to impose restrictions or conditions on Insolvency Permits under Bye-law 31 above. An intended decision to publish under this Bye-law shall be communicated to the Insolvency Permit holder concerned at the same time as the intended decision itself, and shall be subject to hearing and appeal.

54. The Committee shall not publish accepted decisions to impose Regulatory Penalties under Bye-law 45 above.

#### **ADDITIONAL MATTERS ABOUT THE SURRENDER, SUSPENSION OR WITHDRAWAL OF AN INSOLVENCY PERMIT**

55. This Bye-law and Bye-law 56 below apply in circumstances where the Committee has accepted the surrender of an Insolvency Permit or has suspended an Insolvency Permit or has withdrawn an Insolvency Permit under these Bye-laws but the Committee has nevertheless permitted the Insolvency Permit holders concerned to continue to hold existing appointments whilst alternative arrangements are put in place, or where any similar arrangements were made under earlier versions of these Bye-laws.

56. Where Bye-law 55 applies, the Insolvency Permit holder concerned shall not make any arrangements for the future management of the cases concerned without the explicit written consent of the Committee.

57. Where the Committee has accepted the surrender of an Insolvency Permit or has suspended an Insolvency Permit or has withdrawn an Insolvency Permit under these Bye-laws, or where any similar arrangements were made under earlier Bye-laws or under the Rules or under the equivalent governance of another Recognised Professional Body, and the former Insolvency Practitioner subsequently seeks to apply for the issue of a fresh Insolvency Permit, the Committee shall, before determining any application, decide whether or not the application should be treated as an application for the initial grant of an Insolvency Permit, and shall inform the former Insolvency Permit holder accordingly and give its reasons. Bye-laws 37 to 44 shall apply.

#### **THE EXTENSION OF AN INSOLVENCY PERMIT**

58. Subject to Bye-laws 59 and 60 below, the Committee may, at the request of an Insolvency Permit holder and if it deems it expedient, extend the validity of an Insolvency Permit into the year following that for which it was issued. The extension shall be granted for a specified period and restricted to the completion of cases open at the time the request for an extension is made.

59. Insolvency Permit holders who want their Insolvency Permits to be extended under Bye-law 58 above must, before their current Insolvency Permit expires, submit an application for an Insolvency Permit for year into which they want their insolvency permit to be extended, together with an explanation of the circumstance justifying the extension.

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60. The Committee may, of its own volition and if it deems it to be in the interest both of the public and of the Institute, decline to grant an application for an Insolvency Permit and instead extend the validity of any Insolvency Permit into the year following that for which it was issued and make an appropriate charge for such extension. The extension shall be restricted to the completion of cases open at the time the extension is made, and may be subject to such other restrictions or conditions as the Committee may decide. Bye-laws 35 and 37 to 44 shall apply to any such decision.

**LIABILITY OF THE INSTITUTE**

61. The Institute, its officers, staff, employees, members of its Council or committees or any agent or delegate of any of them or the committee members or staff or employees of the Joint Disciplinary Scheme or the employees of any such agent or delegate or body shall not be liable for anything done or not done in carrying out its or their functions under or as contemplated in these Bye-laws or any other rules or regulations referred to herein, unless the act or omission was in bad faith

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# INSOLVENCY PERMIT BYE-LAWS

**SUBJECT MATTER**

**REFERENCE  
TO BYE-  
LAWS**

**KNOWLEDGE AND EXPERIENCE REQUIREMENTS**

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|--|-----------------|
| <p>1. For the purpose of these Bye-laws, insolvency experience is experience obtained from:</p> <ul style="list-style-type: none"> <li>a. involvement in insolvency work of a type reserved to Insolvency Practitioners under the Act including appointment taking.</li> <li>b. involvement in other insolvency work not reserved to Insolvency Practitioners under the Act (including advisory work); and</li> <li>c. other work done at the instigation of or involving liaison with creditors which might lead to formal insolvency or the avoidance thereof.</li> </ul> <p>2. The experience requirements may be met by members accumulating a reasonable amount of chargeable time spent in insolvency work as partner, principal or employee. The hours of experience stated in the application must be the applicant's own time; staff time must not be included.</p> | <p>20 to 24</p> |
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| <p>3. A total of 600 chargeable hours achieved during a three-year period immediately prior to initial application for a permit (not more than one year of which may be before admission to membership of ICAS) will meet the minimum experience requirement for the grant of a permit, provided that at least 150 hours are achieved in each year, as also will experience on the same basis in accordance with the following table:</p> | <p>20 and 21</p> |
|---|------------------|

Period (Years)	Total Hours	Minimum Annual Hours
3	600	150
5	750	100
8 or more	1,000	100

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|---|-----------|
| <p>4. The Committee may require permit holders to demonstrate in detail the extent of their continuing knowledge and experience at any subsequent application date.</p> | <p>20</p> |
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**EXAMINATIONS**

5. The Examination specified by the Council in terms of Byelaw 21a is the examination of the Joint Insolvency Examination Board.

**FITNESS & PROPRIETY**

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| <p>6. Applicants must give full details of the criteria required in terms of Bye-law 20</p> | <p>20</p> |
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*Approved by Council on 12 March 2010*

## INSOLVENCY PERMIT BYE-LAWS

<b>SUBJECT MATTER</b>	<b>REFERENCE TO BYE- LAWS</b>
7. The Institute may, or in some circumstances may be required to, pass information about an Applicant to the Department for Business, Enterprise and Regulatory Reform or to another recognised professional body with an interest in the Applicant.	
8. Applicants and permit holders may, under Bye-law 11, be required to disclose information, including but not limited to books, papers and records, in order that the Committee, or its appointed agent, can carry out a review to establish whether the member concerned is a fit and proper person to hold an insolvency permit.	20 & 11

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