

DRAFT NOTICE

Government Notice No. of 2010

THE INSOLVENCY ACT 2009
Notice by the Minister under the Insolvency Act 2009
[section 411(3)]

1. Notice by the Minister in accordance with section 411(3) of The Insolvency Act 2009.
2. Notice is hereby given of the intention of the Minister of Finance and Economic Development to make regulations in respect of the qualifications and registration of Insolvency Practitioners, as per the attachment.

Made by the Minister on July 2010

DRAFT REGULATIONS

Government Notice No. of 2010

THE INSOLVENCY ACT 2009 **Regulations made by the Minister under the Insolvency Act 2009** *(sections 374 and 411)*

1. These regulations may be cited as the Insolvency (Registration of Insolvency Practitioners) Regulations 2010.
2. (a) In these regulations –
 - “Act” means the Insolvency Act 2009;
 - “Director” has the same meaning as in the Insolvency Act 2009;
 - “insolvency practitioner” has the same meaning as in the Insolvency Act 2009;
 - “qualified auditor” has the same meaning as defined in the Companies Act 2001;
 - “registers” refers to the action of entering the name and particulars of an Insolvency Practitioner in the Register of Insolvency Practitioners;
 - “secretary” has the same meaning as defined in the Companies Act 2001;(b) In these regulations, unless the context otherwise requires, any term defined in the Act shall have the same meaning assigned to it in these regulations.
3. The forms in the Schedule shall be used in relation to registration of insolvency practitioners and to notices that are required to be given by an insolvency practitioner to the Director under s.374.
4. A person shall not be qualified for appointment as an insolvency practitioner unless that person is registered as an insolvency practitioner under the provisions of these regulations.
5. (a) Every person who after the commencement of these regulations intends to practise as an insolvency practitioner and who possesses the qualifications set out in subparagraph (b) shall submit an application for registration to the Director as set out in Form 1.
 - (b) In this regulation –
 - (i) “qualifications” in relation to insolvency practitioners are those qualifications which would entitle a person to act as either a qualified auditor or a secretary under s.198 and s.165 of the Companies Act 2001, or such other qualifications as may be approved by the Minister in accordance with s.411(3);

(c) The Director shall register an applicant under subparagraph (a) as an insolvency practitioner and enter his name and such other particulars as he considers relevant in the Register of Insolvency Practitioners pursuant to s374(1), where he is satisfied that the applicant –

- (i) has the qualifications referred to in paragraph (a) of this regulation;
- (ii) in the case of –
 - (a) a liquidator meets the requirements of section 109(1) of the Act,
 - (b) a receiver meets the requirements of section 184 of the Act;
and
 - (c) an administrator meets the requirements of section 215(2) of the Act; and
- (iii) has the necessary competence to practise as an insolvency practitioner.

(d) The Director may require that person to submit such other documentary evidence as may be necessary for the purpose of registration.

(e) Where the Director registers a person as an insolvency practitioner, he shall inform the person in writing of his registration.

(f) The Director may refuse to register an applicant where that person does not satisfy the requirements specified in subparagraphs (b) and (c). The Director shall inform the applicant in writing of his refusal within 7 days after the submission of all documents in support of the registration.

(g) Every person registered as an Insolvency Practitioner shall, within 14 days, inform the Director of any change in particulars initially communicated in Form 1 under subparagraph (a).

(h) The Director may, after complying with the provisions of s.375(3) to (6) and s.376, cancel the registration of an insolvency practitioner, and remove the name of the person concerned from the Register of Insolvency Practitioners.

(i) The Director shall enter against the name of the person concerned in the Register of Insolvency Practitioners any matter that may affect that person in accordance with s.374 subsection (6).

6. Every Insolvency Practitioner who, for a period of 6 months, has ceased to hold any office as an Insolvency Practitioner shall, within 7 days of the expiry of that period, give notice of that fact to the Director as set out in Form 3.

7. Every Insolvency Practitioner who is suspended or removed from the practice of accountancy or law or the practice of secretary by any professional body in Mauritius or by a comparable professional body outside Mauritius, shall, within 7 days, give notice of that fact to the Director as set out in Form 4.

Administrators, Receivers or Liquidators entitled to act pursuant to the Insolvency (Transitional) Provisions Regulations 2009

8. (a) The form of notice of appointment set out in Form 2 shall be sent to the Director by every person who holds office at the commencement of the Act as an administrator or receiver or liquidator (other than the Official Receiver) and shall be given within 14 days of the commencement of these regulations.

(b) An administrator, a receiver or a liquidator who has been entitled to act as such pursuant to the Insolvency (Transitional Provisions) Regulations 2009 (GN No. 60 of 2009) shall, upon completion of any administratorship, receivership or liquidation that is being conducted pursuant to those regulations, cease to be an insolvency practitioner under the Act unless he is registered pursuant to these regulations.

(c) Where two or more Insolvency Practitioners are appointed jointly or severally, each Insolvency Practitioner shall submit his particulars of appointment on a separate form, and shall clearly indicate the address elected for service of notices and/or any other correspondence.
9. The Insolvency (Transitional Provisions) Regulations 2009 (GN No. 60 of 2009) is hereby repealed.
10. These regulations shall come into effect on October 2010.

Made by the Minister on October 2010

SCHEDULE**FORM 1**

Registration as an Insolvency Practitioner (s. 374 of the Insolvency Act 2009)		
A. Personal Details		
1.	Title (Mr/Mrs/Ms/Dr)	
2.	Surname	
3.	Maiden name (if applicable)	
4.	First name(s)	
5.	Date of Birth	
6.	Nationality	
	National Identity Card Number	
7.	In case of a non-citizen of Mauritius	Passport or travel document number _____ Issuing authority _____ Date of issue _____ Date of expiry _____
8.	Residential Address Telephone Number	
9.	Office Address Telephone Number Mobile Number Facsimile Number E-mail Address	
10.	Details of Residence (for last five years, if other than Mauritius)	

B. Professional Qualifications and Experience		
11.	Qualifications Held	
	Name of Institution	
	Country	
	Date of qualification	
12.	Membership of Professional Body (Please tick as appropriate)	<input type="checkbox"/> Accountancy <input type="checkbox"/> Law <input type="checkbox"/> Secretary

		Professional Body Membership No. :
13.	Other Professional Qualifications and/or Membership of International Insolvency Associations	
14.	Experience as an Insolvency Practitioner <i>[Applicant may wish to provide (post qualification) information on the nature of his involvement in managing insolvencies over the past five years]</i>	
15.	Enclosures <i>Photocopies of Professional Qualifications Photocopies of Certificates of Professional Bodies</i>	

C. Other Information

16.	Are you presently performing duties of Administrator / Receiver / Liquidator ? In the affirmative, please give the name of the company(ies).	
17.	Please list down the cases in which you have performed the duties of an Insolvency Practitioner.	
18.	Please quote your Business Registration.	

D. Declaration by Applicant

(a) On signing this application form, I declare that -

- (i) the particulars given in this form are true, accurate and complete to the best of my knowledge and belief, and I will provide any further information that the Director of Insolvency Service may request,
- (ii) I have five years' post qualification experience in the area covered by the professional qualification referred to above,
- (iii) I am a fit and proper person, and I am not under any suspension,
- (iv) I hold a Professional Indemnity Insurance cover for not less than Rs 1 million, and will maintain that Professional Indemnity Insurance coverage and, following expiry of the current policy, will renew it,
- (v) I am not incapacitated by reason of any physical or mental health,

- (b) I undertake to abide by the provisions of the Insolvency Act,
- (c) I understand that a false declaration on this form may invalidate this application.
- (d) I authorise the Director of Insolvency Service to use, verify and make any enquiries relating to the information provided on this form and in relation to any other matter concerning this application.

Date :

Signature :

For Official use only

Registration Number :

Date of Registration :

Note :

Foreigners (e.g. a person appointed as liquidator in a cross border insolvency) who are operating temporarily in Mauritius are required to register as an insolvency practitioner with the Director of the Insolvency Service.

SCHEDULE
FORM 2

NOTICE OF APPOINTMENT OF INSOLVENCY PRACTITIONER
pursuant to Section 374(2) of the Insolvency Act 2009

TO: The Director of the Insolvency Service

Notice of the following appointment is given -

1. Full name of insolvency practitioner :
[Surname First, in Block Letters]

2. Nature of appointment :
.....
[State whether liquidator, receiver or administrator in a Voluntary Administration]

3. Date of appointment :

4. Company in relation to which appointment is made :
.....

Registered address of the company :

5(a). Office address (provide both a postal and physical address) :
.....
(s 157(a) & 187(1)(b)(iii))

5(b). Elected address (in case of joint appointment) :
.....

6. Residential address :

7. Email address :

8. Telephone :

9. Mobile :

10. Facsimile :

11. Business Registration Number :

Dated this day of 20....

.....
Signature of Insolvency Practitioner

SCHEDULE
FORM 3

NOTICE OF CEASING TO HOLD ANY OFFICE
AS AN INSOLVENCY PRACTITIONER
pursuant to Section 374(3)(a) of the Insolvency Act 2009

TO: The Director of the Insolvency Service

TAKE NOTICE that I have ceased to hold any office as an Insolvency Practitioner.

- 1. Full name of insolvency practitioner :
[Surname First, in Block Letters]

- 2. Date of ceasing to hold any office as an Insolvency Practitioner :

- 3. State the nature of the office the Insolvency Practitioner last held and has now
ceased to hold :
.....
[State whether liquidator, receiver or administrator in a Voluntary Administration]

Dated this day of 20....

.....
Signature of Insolvency Practitioner

SCHEDULE
FORM 4

NOTICE OF SUSPENSION OR REMOVAL FROM PROFESSIONAL PRACTICE
OF AN INSOLVENCY PRACTITIONER
pursuant to Section 374(4) of the Insolvency Act 2009

TO: The Director of the Insolvency Service

TAKE NOTICE that I have been suspended or removed from professional practice.

- 1. Full name of insolvency practitioner :
[Surname First, in Block Letters]

- 2. Type of professional practice involved :
(Accountancy / Law / Secretary)

- 3. State whether suspension or removal from practice :
.....

- 4. Date of suspension or removal :
[Attach documentary evidence of receipt of notification from professional body]

Dated this day of 20....

.....
Signature of Insolvency Practitioner