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S T A T U T O R Y I N S T R U M E N T S

2017 No. 55.

THE INSOLVENCY PRACTITIONERS REGULATIONS, 2017

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S T A T U T O R Y I N S T R U M E N T S

2017 No. 55.

The Insolvency Practitioners Regulations, 2017.

(Under section 260 of the Insolvency Act, 2011, Act No. 14 of 2011)

IN EXERCISE of the powers conferred on the Minister responsible for justice by section 260 of the Insolvency Act, 2011, these Regulations are made this 22nd day of June, 2017.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Insolvency Practitioners Regulations, 2017.

2. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Insolvency Act, 2011;

“Central Bank” means the Bank of Uganda established under section 2 of the Bank of Uganda Act;

“insolvency practitioner” means a person who is not an official receiver who is qualified to act as an insolvency practitioner within the meaning of section 203 of the Act;

“Minister” means the Minister responsible for justice;

“official receiver” means the person appointed under section 198 of the Act;

“register” means the register of insolvency practitioners.

Register of insolvency practitioners

3. Register of insolvency practitioners.

(1) The official receiver shall establish and maintain an up to date register of insolvency practitioners.

(2) The register shall contain in respect of each person entered in the register—

- (a) the name and physical address of the person;
- (b) the date of entry in the register;
- (c) the person's profession;
- (d) the professional body where the person belongs; and
- (e) Any other detail as the official receiver may determine.

Registration of insolvency practitioners

4. Registration of insolvency practitioners.

An insolvency practitioner shall register with the official receiver.

5. Application for registration.

(1) An application for registration of an insolvency practitioner shall be made to the official receiver in Form I specified in Schedule I.

(2) An application for registration of an insolvency practitioner shall be accompanied by—

- (a) certified copies of the qualifications of the person;
- (b) proof of membership of the professional body to which the person belongs;

- (c) evidence of the professional indemnity required under section 204(1) of the Act and regulations 193 and 196 of the Insolvency Regulations, 2013;
- (d) evidence of a bank account for insolvency matters maintained by the applicant or by his or her firm with a financial institution licenced by the Central Bank;
- (e) proof of payment of fees under the Insolvency (Fees) Regulations, 2013 ; and
- (f) any other document that the official receiver may require for purposes of compliance with the Act and Regulations.

6. Examination of the application.

(1) The official receiver shall examine the application and ascertain whether the applicant is qualified to be appointed an insolvency practitioner under sections 204, 205, 206, 207 and 208 of the Act.

(2) The official receiver shall within fifteen working days after receipt of the application inform the applicant of his or her decision.

7. Refusal to register person as insolvency practitioner.

(1) Where the official receiver is not satisfied that the applicant meets the requirements to be appointed an insolvency practitioner, the official receiver shall inform the applicant of the reasons for the refusal within the time specified in regulation 6(2).

(2) A person aggrieved by a decision of the official receiver may appeal to the Minister within seven working days from the date of receipt of the decision.

8. Certificate of registration of insolvency practitioner.

(1) The official receiver shall issue a certificate of registration to an applicant under regulation 5, who qualifies to be appointed an insolvency practitioner under the Act and these Regulations and a certificate of security.

(2) A certificate of registration of an insolvency practitioner shall be in Form 2 specified in Schedule I.

9. Transferability of certificate.

A certificate of registration issued in accordance with these Regulations is not transferable or assignable to another person.

10. Duration.

A certificate of registration issued to an insolvency practitioner under these Regulations is valid until the 31st day of December of the year in which it is issued.

11. Renewal of registration

(1) An application by an insolvency practitioner to renew a certificate of registration shall be made at least one month prior to the expiration of the certificate.

(2) An application for renewal by an insolvency practitioner shall be made to the official receiver in Form I specified in Schedule 1.

(3) The application shall be accompanied by the documents and the fees specified in regulation 5.

12. Revocation of registration.

(1) The official receiver may revoke an insolvency practitioner's registration where—

- (a) he or she has ceased to be a registered member of the professional body to which he or she belongs;
- (b) he or she fails to provide security or professional indemnity to the satisfaction of the official receiver;
- (c) he or she has been convicted of a criminal offence provided for under section 204 (2) (g) of the Act;
- (d) he or she is the subject of a prohibition order made under section 209 of the Act;

- (e) he or she fails to comply with any condition or directive issued by the official receiver.

(2) The official receiver shall before revoking the registration, give notice to the insolvency practitioner stating the reasons for revocation, of registration, at least thirty days before the revocation to allow the insolvency practitioner to show cause why the registration should not be revoked.

PART III—CONDUCT AND ETHICS OF INSOLVENCY PRACTITIONERS.

13. Professional conduct of an insolvency practitioner.

An insolvency practitioner shall conduct his or her work in accordance with the Act and these Regulations, and shall comply with the code of ethics set out in Schedule 2.

PART IV—ACCOUNTS AND ANNUAL RETURNS.

14. Accounts and segregation of funds.

(1) An insolvency practitioner shall keep proper books of accounts in respect of each matter in which he or she acts as an insolvency practitioner.

(2) An insolvency practitioner shall ensure that records are maintained to identify the funds and other assets of each case for which the insolvency practitioner is responsible.

(3) The records indicating the funds and assets for each insolvency case shall be kept separate from the other matters handled by the insolvency practitioner or his or her firm.

15. Annual returns by insolvency practitioners.

(1) An insolvency practitioner shall file annual returns to the official receiver by 31st December for every calendar year containing the following information—

- (a) the number of persons in respect of whom he or she has acted as an insolvency practitioner during the period;

- (b) the name of the person in respect of whom the practitioner is acting;
- (c) the date of the appointment as an insolvency practitioner for each case;
- (d) the type of proceedings;
- (e) the status of the matter; and
- (f) complaints made during the period, which shall include—
 - (i) the name of the complainant;
 - (ii) a brief description of the nature of the complaint; and
 - (iii) whether the complaint has been resolved and if it has been resolved the decision made regarding the complaint.

(2) The annual returns shall be filed in Form 3 specified in Schedule 1.

(3) Notwithstanding sub regulation (1), the official receiver may at any time request an insolvency practitioner to provide any information relating to any matters referred to in sub regulation (1).

SCHEDULES

SCHEDULE 1

FORMS

FORM 1

Application for registration

regulation 5, 11

THE INSOLVENCY ACT, 2011

I, the applicant, apply to register as an insolvency practitioner

PARTICULARS OF THE APPLICANT

- (a) Name: _____
- (b) Date of birth: _____
- (c) Occupation: _____
- (d) Academic qualifications _____:

_____ *(attach the necessary certified documents)*
- (e) Professional membership: _____
(attach a certified proof of membership)
- (f) Physical address: _____
 - (i) telephone numbers: _____
 - (ii) email address: _____
 - (iii) postal address: _____

PROFESSIONAL CONDUCT

- (a) Whether the applicant has been subjected to any disciplinary proceedings or punishment under any law by his or her professional _____ body.

(b) Whether the applicant is disqualified from acting as an insolvency practitioner in accordance with section 204 (2) of the Act.

(c) Whether the applicant has been subject to any prohibition order under section 209 of the Act:_____

PROFESSIONAL INDEMNITY

(a) Name of policy holder:_____

(b) Insurer:_____

(c) Duration of the insurance cover:_____

(d) Expiry date:_____

DECLARATION

I hereby declare that to the best of my knowledge and belief all the particulars furnished in this application are true.

Date_____

*Signature of the applicant:*_____

FORM 2

regulation 8(2)

THE INSOLVENCY ACT, 2011

Certificate of registration of Insolvency Practitioner

Certificate No. _____

IN ACCORDANCE with the Insolvency Act, 2011, this is to certify that a certificate of registration of an insolvency practitioner to be appointed or act as an Insolvency Practitioner for a period of one year beginning _____ and ending _____ has been granted to _____ (*insert the name of the Applicant*) of _____ (*insert the address*).

THIS CERTIFICATE is issued subject to observance of the requirements of the Insolvency Act, 2011 and the Regulations made under the Act.

Dated at _____ this _____ day of _____, 20 _____

Official Receiver

3. The list of complaints made against the insolvency practitioner

<i>Full names of the complainant</i>	<i>The nature of the complaint</i>	<i>Status of the complaint</i>

4. Whether the insolvency practitioner has any impediment disqualifying him or her to act as an insolvency practitioner under section 204 (2) of the Act or the Regulations made under the Act.

Yes No.....

5. If yes, give particulars

.....

Date atthis day of20.....

.....
Name and Signature of the Insolvency Practitioner

SCHEDULE 2

regulation 13

CODE OF ETHICS FOR INSOLVENCY PRACTITIONERS

An insolvency practitioner shall act professionally, accurately, truthfully, and in an unbiased manner and shall in particular adhere to the following principles:

1. Integrity

An insolvency practitioner shall be honest in all professional and business relationships with his or her clients.

2. Objectivity

An insolvency practitioner shall not allow bias, conflict of interest or undue influence to override professional or business judgements.

3. Professional competence and due care

(1) An insolvency practitioner has a continuing duty to maintain professional knowledge and skill, to ensure that a client receives competent professional service based on current developments in practice, legislation and techniques.

(2) An insolvency practitioner shall act diligently and in accordance with applicable technical and professional standards while providing professional services.

4. Confidentiality

(1) An Insolvency practitioner shall respect the confidentiality of information acquired as a result of professional and business relationships and shall not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose the information.

(2) Confidential information acquired as a result of professional and business relationships shall not be used for the personal advantage of the insolvency practitioner or third parties.

5. Professional behaviour

(1) An Insolvency practitioner shall comply with relevant laws and regulations and shall avoid any action that discredits the profession.

(2) An insolvency practitioner shall conduct himself or herself with courtesy and consideration towards every person he or she come into contact with while performing his or her work.

MAJ.GEN. (Rtd) KAHINDA OTAFIIRE,
Minister of Justice and Constitutional Affairs.

Cross reference
Bank of Uganda Act, Cap. 51