IAASA

Irish Auditing & Accounting Supervisory Authority

Consultation on an authorisation process for certain individuals as liquidators

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1. Introduction

The Companies Act 2014 ('the 2014 Act') came into force on 1 June 2015. The 2014 Act provides, at Sections 633 and 634, for the qualifications governing those who wish to act as company liquidators[1].

Section 633(1) of the 2014 Act provides for the qualifications necessary for those who wish to be appointed as liquidator. For the first time in Irish law, there are now minimum requirements for those wishing to act as liquidators in the context of corporate insolvency. For reference, the text of sections 633 and 634 are set out in Appendix 1 to this paper.

In summary, the categories of those individuals who will be entitled to act as company liquidators as set out in the 2014 Act are as follows:-

- Category 1: members of a prescribed accountancy body[2] ('PAB') holding a practising certificate;
- Category 2: Solicitors holding a practising certificate;
- Category 3: Members of other professional bodies recognised by IAASA (currently none);
- Category 4: Persons qualified under the laws of another EEA State; and
- Category 5: Persons with practical experience of the winding up of companies and knowledge of relevant law who are authorised by the Irish Auditing and Accounting Supervisory Authority ('IAASA') to act as a liquidator[3].

2. New responsibilities conferred on IAASA by the 2014 Act

The 2014 Act now affords IAASA wit*h responsibility for:-*

(i) receiving applications from and granting authorisation to persons with adequate relevant experience of the winding up of companies and knowledge of relevant law[4];

(ii) making regulations in respect of the amount and terms of professional indemnity cover required to be held by all liquidators[5]; and

(iii) recognising professional bodies (other than the Law Society or the PABs) which may in turn grant authorisations to act as liquidators to its members[6].

This paper only details with point (i) above, namely the receiving of applications from and granting of authorisations to persons with adequate relevant experience of the winding up of companies and knowledge of relevant law.

Paragraph 5 in the table to Section 633(1) permits a person to act as liquidator where that person-

(a) has made an application in that behalf to IAASA in the prescribed form within 2 years after the commencement of section 633 (i.e. on or before 31 May, 2017), and

(b) has paid the prescribed fee to IAASA.

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[1] The section also covers provisional liquidators.
[2] As defined in s 900(1) of the 2014 Act.
[3] Persons who have applied to IAASA for authorisation may continue to act as a liquidator pending the determination of that application by IAASA – see section 633(2).
[4] Section 633(2)(b) and Category 5 of the Table to Section 633
[5] Section 634(1)
[6] Category 3 of the Table to Section 633

IAASA may authorise a person to act as a liquidator where the person concerned has, prior to 1 June 2015-

(a) obtained adequate relevant experience of the winding up of companies and knowledge of the law applicable thereto. Such experience must have been gained either by being employed in relevant work by a person who at the relevant time fell (or, if this section had been in operation at that time, who would have fallen) within paragraph 1, 2 or 3 of the table, i.e. those persons listed in Categories 1 – 3 of section 1 above; or

(b) practised in an EEA state as a liquidator.

IAASA must also be of the opinion that the person is a fit and proper person to act as a liquidator. IAASA is required to consult with the Director of Corporate Enforcement in this regard.

Finally, a person falling within categories 1-4 as listed in section 1 above is not permitted to apply to IAASA for authorisation under paragraph 5 of the Table to section 633.

A fee may be charged by IAASA for receipt of any applications under this section.

3. Draft application form

The draft application form proposed for use by IAASA is included as Appendix 2 to this document. The information requested is intended to enable IAASA to assess whether authorisation to act as liquidator should be granted to an applicant. In other words, applicants are required to demonstrate-

(a) adequate relevant experience of the winding up of companies and knowledge of the law applicable thereto; and

(b) that he or she is a fit and proper person to act as a liquidator.

4. Draft guidance notes

The purpose of the guidance notes is to (a) assist applicants to complete the Application Form; and (b) set out certain expectations and parameters for how IAASA will determine whether the applicant should be authorised by IAASA. These guidance notes are included as Appendix 3 to this document.

5. Consultation process

In the light of the above a number of questions are set out below on which we would welcome views of stakeholders and interested parties.

5.1. Do you consider that the draft application form requests sufficient information from applicants to allow a decision to be made by IAASA as to whether authorisation to act as a liquidator should be granted to an applicant? If not, please detail further information which you consider should be added to the application form.

5.2. Do you consider that there is information in the draft application form that should not be requested of applicants? Please set out the basis for this view.

5.3. Do you consider that the range of matters (as set out in Section 4 of the draft guidance notes) that IAASA is likely to take consideration of in assessing an applicant's experience and knowledge is appropriate? Please set out the basis for your view.

5.4. Do you consider that the proposed application fee structure (as set out in Section 10 of the draft guidance notes) is appropriate? Please set out the basis for your view.

5.5. Do you have any further comments on the proposed application form, guidance notes or the registration process in general?

Please provide responses to the above questions by e-mail only, to **liquidators@iaasa.ie** no later than **5:00pm on Friday, 7 August 2015.**

While responses may include attachments, such attachments must not be encrypted. All responses received by the deadline will be considered prior to the issue of the final Policy Paper by IAASA.

Depending on the nature and scale of responses, IAASA may publish a Feedback Statement summarising the content of the responses. Respondents should note that, in the interests of transparency, their responses may be published in full or in part (and may be attributed to the respondent) by IAASA in that Feedback Statement.

Appendix 1 – Sections 633 and 634 of the Companies Act 2014

Qualifications for appointment as liquidator or provisional liquidator — general

633. (1) Subject to *sections 634* and *635*, a person shall not be qualified for appointment as a liquidator of a company unless he or she falls within a paragraph of the Table to this section.

(2) Nothing in this section shall prevent a person who—

(a) does not fall within *paragraph 1*, *2*, *3* or *4* of the Table to this section, and

(b) has made an application to the Supervisory Authority under and in accordance with *paragraph 5* of that Table (in *subsection (3)* referred to as a "relevant applicant"),

from acting as a liquidator pending the determination of that application.

(3) In addition to *subsection (2)*, nothing in this section shall prevent a relevant applicant from continuing to act as a liquidator in a winding up in relation to which he or she was appointed liquidator before the commencement of this section notwithstanding that the Supervisory Authority has refused his or her application made under and in accordance with *paragraph 5* of the Table to this section.

(4) In this section "liquidator" includes provisional liquidator.

Table	
1	First category — member of a prescribed accountancy body. The person is a member of a prescribed accountancy body, within the meaning of Part 15, being a person who— (a) holds a current practising certificate issued by that body; and (b) is not prohibited by virtue of rules of that body or a direction, ruling or decision of that body, or any disciplinary or professional practice committee of it, from acting as a liquidator.
2	Second category — practising solicitor. The person is a solicitor, being a solicitor who— (a) holds a current practising certificate issued by the Law Society of Ireland under the Solicitors Acts 1954 to 2002; and (b) is not prohibited by virtue of regulations made by the Law Society of Ireland, or a decision or order made by the Solicitors Disciplinary Tribunal or the court, under those Acts from acting as a liquidator.
3	Third category — member of other professional body recognised by Supervisory Authority. The person is a member of such professional body as the Supervisory Authority may from time to time recognise for the purposes of this section, being a person who— (a) is authorised for the time being by that professional body to pursue the particular activities that that body aims to promote or foster or as respects the pursuit of which by its members that body has been established to represent; and (b) is not prohibited by virtue of rules of that body or a direction, ruling or decision of that body, or any disciplinary or professional practice committee of it, from acting as a liquidator.
4	Fourth category — person qualified under the laws of another EEA state. The person is entitled under the laws of an EEA state (not being the State) to act as a liquidator in insolvency proceedings and the qualifications held by, or the circumstances

Table	
	otherwise relating to the person, that entitle him or her so to act are ones that, by virtue of any Community act, entitle him or her to act as a liquidator in the State.
5	Fifth (and limited) category — person with practical experience of windings-up and knowledge of relevant law. The person— (a) having made application in that behalf to the Supervisory Authority in the prescribed form within 2 years after the commencement of this section; and (b) paid the prescribed fee to the Supervisory Authority, stands authorised for the time being by the Supervisory Authority (which authorisation the Supervisory Authority is, by virtue of this section, empowered to grant) to be so appointed, such authorisation having been granted on the grounds that each of the following is satisfied— (i) the person has, prior to the commencement of this section, obtained adequate relevant experience of the winding up of companies and knowledge of the law applicable thereto by virtue of the person's either— (I) having been— (A) employed in relevant work by a person who at the relevant time fell (or, if this section had been in operation at that time, who would have fallen) within paragraph 1, 2 or 3; or (B) engaged on his or her own account in relevant work; or (II) having practised in an EEA state (not being the State) as a liquidator; (ii) the person is, in the opinion of the Supervisory Authority, after consultation with the Director, a fit and proper person to act as a liquidator; and the person does not fall within paragraph 1, 2, 3 or 4

Supplemental provisions in relation to *section 633* (including requirements for professional indemnity cover)

634. (1) Subject to the preceding section, *subsection (3)* and *section 635*, a person shall not be qualified for appointment as a liquidator of a company unless there is in place in relation to the person an indemnity, in such amount and on such terms as may from time to time be prescribed by regulations made by the Supervisory Authority, against losses and claims arising in respect of civil liability incurred by the person in respect of any act or omission by—

(a) the person,

(b) any servant or agent of the person, or

(c) both of them,

in the conduct of the winding up of the company concerned.

(2) The reference in subsection (1) to an indemnity being in place in relation to a person is a reference to an indemnity being provided (against the losses and claims referred to in that subsection) by either of the following means:

(a) a policy of indemnity insurance being effected and maintained by the person with an insurance undertaking; or

(b) the person's participating, in a manner legally enforceable by the person, in an indemnity fund of a mutual nature that is recognised by the Supervisory Authority for the time being for the purposes of this section.

(3) *Subsection (1)* does not apply to a person as respects any winding up in relation to which he or she has been appointed liquidator before the commencement of this section.

(4) A person shall not act as liquidator of a company at a time when he or she is not qualified under *section 633* or this section for appointment to that office.

(5) If, while acting as liquidator of a company, a person ceases to be qualified under *section 633* or this section for appointment to that office, the person shall thereupon vacate his or her office.

(6) On vacating such office by reason of those circumstances, the person shall give notice in writing that he or she has vacated such office (by reason of those circumstances)—

(a) within 2 days after the date of vacating office, to—

(i) the Registrar,

(ii) the Director, and

(iii) if the person had been authorised pursuant to *paragraph 5* of the Table to *section 633* to be appointed as a liquidator — the Supervisory Authority,

and

(b) within 14 days after the date of vacating office, to—

(i) in the case of a winding up by the court, the court and—

(I) if a committee of inspection has been appointed — the members of that committee, or

(II) if no committee of inspection has been appointed — the creditors of the company,

(ii) in the case of a creditors' voluntary winding up—

(I) if a committee of inspection has been appointed — the members of that committee, or

(II) if no committee of inspection has been appointed — the creditors of the company,

or

(iii) in the case of a members' voluntary winding up — the members of the company.

(7) A person who contravenes *subsection (4)* or *(5)* shall be guilty of a category 2 offence.

(8) A person who contravenes *subsection (6)* shall be guilty of a category 3 offence.

(9) As respects a person who has been authorised under *paragraph 5* of the Table to *section 633* to be appointed a liquidator—

(a) if the person becomes qualified for appointment as a liquidator of a company by reason of another provision of that Table, the person's authorisation under that *paragraph 5* shall thereupon cease to have effect,

(b) the Supervisory Authority may withdraw or suspend (for such period and on such terms as it thinks fit) the person's authorisation under that *paragraph 5* if it is satisfied that the person is no longer sufficiently capable of acting as a liquidator or is no longer a fit and proper person to act as a liquidator.

(10) The Supervisory Authority may, to meet the cost of conducting such inquiries as may be necessary to be conducted for the purposes of its exercising the powers under

subsection (9)(b), levy, not more frequently than annually, such periodic charge as may be reasonable on any person acting as a liquidator, being a person who so acts by virtue of the person's being authorised under *paragraph 5* of the Table to *section 633*.

(11) In this section—

"insurance undertaking" means the holder of an authorisation under the European Communities (Non-Life Insurance) Regulations 1976 (S.I. No. 115 of 1976);

"liquidator" includes a provisional liquidator.

Appendix 2 – Draft application form

Part A – Personal Details

Information requested	Response
1. Your full name *Include any names by which you have been known previously*	
2. Your date of birth (dd/mm/yyyy)	
3. Nationality and proof of identification (For example, copy of passport / driving liciences / proof of PPS, etc)	
4. Your private address	
5. Your email address for correspondence	
6. Your principal business address and telephone number *You should state the address at which you work or most frequently work.*	
7. Your business website address	
8. If you are trading under any business name or working in or a partner in a firm, please indicate the business name and address of the business and/or firm.	
9. Specify which of the above addresses you would prefer correspondence or notices relating to your application to be sent.	
10. Are there any other addresses from which your business as liquidator will be conducted? *If yes, list the addresses of any other offices which deal with liquidations in your name and to which creditors' and other correspondence in respect of such liquidations is normally sent.*	
11. Are you currently authorised and/or supervised by a regulatory authority inside or outside the State (if so, please provide details)	
12. Are you a member of any professional body (or bodies)? If **Yes**, please provide: a. Name and address of the body; b. Date of Admission; and	

Information requested	Response
c. Your membership number. (Please provide a letter of good standing from each such professional body dated within 3 months prior to the application) [7]	
13. Are you tax compliant? (Please provide a current Tax Clearance Certificate issued by Revenue dated within 3 months prior to the application.)	

[7] Note that members of prescribed accountancy bodies (as defined in s 900(1) of the Companies Act 2014 holding a current practising certificate and members of the Law Society of Ireland holding a current practising certificate are not permitted to be authorised to act as liquidators under paragraph 5 of the table to s 633 of the Companies Act 2014.

Part B – Application Information

Part B.1 Experience and Knowledge

You are required to provide a Curriculum Vitae ('CV'). Such a CV should outline your employment history and your experience in relation to the winding up of companies and knowledge of the law applicable thereto that you consider relevant**.** Please include an explanation for any professional timeline gap exceeding 12 weeks.

This experience and knowledge should relate to periods prior to 1 June 2015 only. Experience and knowledge obtained after the commencement of the Companies Act 2014 cannot be considered.

Dates (From – To)	Employer/business, including address	Position (e.g. liquidator, manager, senior, junior, trainee, etc)	Approximate hours experience obtained in the winding up of companies	Key actions taken by you(see note below)

Please **submit with this application** a schedule of all liquidation appointments on which you have worked during the period of 10 years immediately preceding the **1 June 2015**.

The schedule should state in respect of each such appointment:

- Name of company;
- Date of appointment;
- Whether the appointment was a Members' Voluntary liquidation, Creditors' Voluntary Liquidation or a Winding up by the Court;
- Your role in relation to the liquidation (e.g. Whether you were the liquidator appointed or were working for the liquidator and if so what was the nature of your role)

You should also provide an outline of key actions taken by you in relation to your work on the winding up of companies liquidations that demonstrates your knowledge and experience in this regard. This should include examples of legal proceedings taken such as restriction or disqualification applications, reckless of fraudulent trading actions, asset recoveries, etc.

Part B.2– Education and Training

If available, please include any information on education and training which may assist us in evaluating your application. In each case, include documentation evidencing the items included.

Educational Awards			
Awarding Body	**Nature of Award**	**Year and Grade Awarded**	**Summary of relevance to application**

Other Relevant Training/Continuing Professional Development			
Training Body	**Nature of Training**	**Duration & date**	**Summary of relevance to application**

Part B.3 – References

You are required to supply two technical references and one character reference, none of whom should be related to you. References should be current (within the last 3 months) and relate specifically to your application for authorisation as a liquidator.

- Your technical referees should be individuals who have knowledge of your experience of the winding up of companies and knowledge of the law applicable thereto.
- Your character reference should be given by someone outside your business firm.

Part B.4– Fitness and Probity:

The following questions are to be answered by entering a YES/NO in the "Response" box below. In any case where the response to a question is YES, full details should be given on a separate sheet and referenced to the appropriate question.

	Question	Response (YES / NO)
1	Have you been convicted of any offence involving fraud, dishonesty, breach of trust, tax offences or of aiding and abetting tax evasion in the State or elsewhere, including any conviction related to financial crime or breach of statutory or regulatory requirements?	
2	Have you been a director or manager of an entity or business that was, during your period as a director or manager, convicted of an offence involving fraud, dishonesty, breach of trust, tax offences or of aiding and abetting tax evasion in the State or elsewhere, including any conviction related to financial crime or breach of statutory or regulatory requirements?	
3	Have you at any time, in the State or elsewhere, been adjudicated bankrupt, or entered into any compromise with your creditors related to bankruptcy or insolvency or are you currently the subject of bankruptcy or insolvency related proceedings or measures? Are you aware of any such proceedings or measures pending?	
4	Have you at any time failed to satisfy a judgment debt under a court order made in the State or elsewhere within one year of the making of the order?	
5	Have you ever been disqualified or restricted, in the State or elsewhere, by a court from acting as a director of a company or equivalent, or from acting in the management or conduct of the affairs or control of any company, partnership, or unincorporated association?	
6	Have you ever been refused entry to any profession or been dismissed or compelled to resign from any office or position of trust, whether or not remunerated?	
7	Have you ever been prohibited, suspended, refused or restricted in the right, in the State or elsewhere, to carry on any trade, business or profession for which a specific licence, registration or other authority is required?	
8	In the last ten years, have you been the director or equivalent of an entity, in the State or elsewhere, which has gone into liquidation, receivership or examinership (or a similar or analogous insolvency process in any other country) or which entered into any arrangements with its creditors which gave rise to a loss to the creditors either while you were a director or equivalent or within one year of your ceasing to be a director or equivalent?	
9	Has any entity with which you were associated as a director, manager or shareholder during the last ten years been compulsorily wound up or equivalent in the State or elsewhere, either whilst you were associated with it or within one year after you ceased to be associated with it?	

	Question	Response (YES / NO)
10	Have you ever been concerned with the management, conduct of affairs or control of any company that, by reason of any matter relating to a time when you were so concerned, has been censured, disciplined, restricted, sanctioned, fined, convicted or publicly criticised, by any enquiry, by any governmental, judicial or statutory authority, by any professional body or by a similar body overseas?	
11	Have you ever been concerned with the management, conduct of affairs, or control of any company which applied for regulatory approval in respect of any business in the State or elsewhere and, by reason of any matter relating to a time when you were so concerned, was refused the application or had the approval subsequently withdrawn, suspended or restricted?	
12	Have you been the subject of proceedings alleging negligence, misconduct or other liability in relation to an insolvency or other professional matter; or are there any proceedings pending?	
13	Have you been convicted of any criminal offence, other than a minor motoring offence not resulting in disqualification; or are there any proceedings pending?	
14	Have you been removed or dismissed from any form of employment or engagement on grounds of misconduct, incompetence or unfitness, or from any fiduciary office or position of trust (whether or not remunerated) including as an insolvency office holder; or is there any action pending?	
15	Have you ever been the subject of any investigation or disciplinary proceedings of a professional body of which you were (or remain) a member, or is there any action pending?	

Part B.5 – Complaints:

Please provide:

(a) your procedures for dealing with complaints made to you in relation to your conduct in the winding up of companies;

(b) details of any such complaints which have been made to you in the past 5 years and how the complaint was resolved; and

(c) details of any complaints made against you in relation to your conduct in the winding up of companies within the past 5 years, including details of the person to whom the complaint was made and how the complaint was resolved;

PART C – Professional Indemnity Insurance:

If you have professional indemnity insurance ('PII'), please provide the following information and attach a copy of your PII policy schedule.

Insurer:	
Policy:	
Policy No.:	
Effective date:	
Expiry date:	
Excess amount:	
Per Claim Cover:	
Aggregate Cover:	
Please provide details of any claims ongoing/pending etc.	

If 'No' you must submit written confirmation from an insurer authorised to carry on business in the State that it will provide the necessary required level of PII cover to you, should you be authorised as qualified for appointment as a liquidator of a company.

PART D Any other matters of relevance

Please provide details of any other matters which you consider relevant to your application

Part E – Applicant' Statutory Declaration

1) I, _____ , [insert applicant's full name] apply for authorisation to be qualified for appointment as a liquidator pursuant to paragraph (5) of the Table to Section 633 of the Companies Act 2014 on the basis of information supplied on this form and any additional information supplied to the Irish Auditing and Accounting Supervisory Authority ("IAASA") in connection with this application.

2) I acknowledge that IAASA may process and disclose such information in the performance of its statutory functions or otherwise as may be specifically authorised by law. I understand that IAASA may seek verification from third parties of any matters pertinent to a proper consideration of my application, including the seeking of information from any professional or similar body of which I am or previously have been a member and I hereby consent to the disclosure by such third parties to IAASA of any such information.

3) I warrant that I have truthfully and fully answered the relevant questions in this application and disclosed any other information which might reasonably be considered relevant for the purpose of this application.

4) I am aware that it may be grounds for refusal of my application and/or grounds for revocation of an authorisation granted on foot of this application to knowingly or recklessly:

   a) provide false or misleading information and/or to make a false or misleading statement (which I acknowledge may include the withholding by me of relevant information) in this application for approval and/or;

   b) fail to inform and/or withhold from IAASA details of any material change in circumstances/new information which is relevant and/or material to this application.

5) I am aware of the provisions section 876 of the Companies Act 2014, which details the offence of providing false information.

6) I undertake that I will promptly notify IAASA of any changes in the information I have provided and supply any other relevant information, which may come to light in the period during which the application is being considered.

7) I undertake to comply with all applicable rules or guidelines issued by IAASA under section 906(3) of the Companies Act 2014.

8) I am aware of the provisions of the Companies Act 2014, and any regulations made under it, which relate to the winding up of companies, and reasonably believe that I can meet the requirements of those provisions. I have sufficient organisational resources including finances, staffing, IT infrastructure, and capability to fulfil my duties as a liquidator.

I, _____[insert applicant's full name], do solemnly and sincerely declare that I have disclosed all facts and circumstances which are relevant to the consideration of my application for authorisation to be qualified for appointment as a liquidator and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed: _____

[insert applicant's full name]

Declared before me…….....[name in capitals] a [notary public] [commissioner for oaths] [peace commissioner] [person authorised by [insert authorising statutory provision]..... to take and receive statutory declarations] by [insert applicant's full name]

[who is personally known to me],

or

[who is identified to me by C.D. who is personally known to me]

or

[whose identity has been established to me before the taking of this Declaration by the production to me of

passport no. [passport number] issued on [date of issue] by the authorities of [issuing state], which is an authority recognised by the Irish Government]

or

national identity card no. [identity card number] issued on [date of issue] by the authorities of [issuing state] [which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement]

or

[Aliens Passport no. (document equivalent to a passport) [passport number] issued on [date of issue] by the authorities of [issuing state] which is an authority recognised by the Irish Government]

or

refugee travel document no. [document number] issued on [date of issue] by the Minister for Justice, Equality and Law Reform]

or

travel document (other than refugee travel document) [document no.] issued on [date of issue] by the Minister for Justice, Equality and Law Reform

at.....[place of signature]

this.....day of…….....[date]

.....

[signature of witness]

Part F – Supporting Documents

Please tick the relevant box to confirm you have included the document with your application.

Item	Supporting Documentation	Included
A	Completed form, with statutory declaration signed and duly notarised.	
B	A CV outlining your employment history and relevant experience of the winding up of companies and knowledge of the law applicable thereto. This should include, in particular, any appointments as liquidator. The experience and knowledge concerned must have been gained prior to 1 June, 2015. Please include an explanation for any professional timeline gap exceeding 12 weeks.	
C	Three references, being two technical references and one character reference, none of whom should be related to you. Your technical referees should be individuals who have knowledge of your experience of the winding up of companies and knowledge of the law applicable thereto in the last three years. Your character reference should be from someone outside your business firm.	
D	Details of any positive answers to Part B.4 – Fitness and Probity (insert N/A across where not applicable)	
E	Evidence or undertaking from your insurer in relation to your PII cover	
F	Copy of Tax Clearance Certificate (dated within the previous 3 months)	
G	Letter of good standing from all professional bodies of which you are a member dated within the previous 3 months (insert N/A across where not applicable)	
H	Proof of identification (For example, copy of passport / driving liciences / proof of PPS, etc)	

Appendix 3 – Draft guidance notes

1. Introduction

Section 633 of the Companies Act 2014 ("**2014 Act**") introduced mandatory qualifications for persons undertaking work in relation to the winding up of companies. That section identifies the category of persons who will be authorised to act as liquidator of a company. It is an offence under section 634 of the 2014 Act for a person to act as a liquidator of a company at a time when he or she is not qualified for appointment to that office.

The 2014 Act permits IAASA to authorise a person to act as liquidator where that person has, prior to 1 June, 2015, obtained adequate relevant experience of the winding up of companies and knowledge of the law applicable thereto, and also where that person is "fit and proper" to act as a liquidator.

2. Applications to IAASA

IAASA will not commence the processing of any application if it is not complete in all respects. You should note that incomplete applications will be rejected and will be returned to the applicant without being processed. Applications will be treated as incomplete unless all questions raised in the application form are fully answered and payment has been received along with all relevant supporting documentation.

An application to IAASA for authorisation must be made on the prescribed form which is available on IAASA's website www.iaasa.ie. Applications may be made by individuals only; there is no provision for authorisation to be granted to firms, partnerships, companies, etc.

Applications will be considered in accordance with Category (5) of the Table to section 633 of the 2014 Act.

Category (5) of the Table to section 633 empowers IAASA to grant authorisations to an individual who applies to IAASA within 2 years from 1 June 2015 and has paid the prescribed fee to IAASA on the grounds that the person satisfies each of the following:

(i) the person has, prior to 1 June, 2015, obtained adequate relevant experience of the winding up of companies and knowledge of the law applicable thereto by virtue of the person's either having-

- been employed in relevant work by a person who at the relevant time was a member of a prescribed accountancy body, a solicitor or a member of a professional body recognised by IAASA; or
- engaged on his or her own account in relevant work; or
- having practised in an EEA state (not being the State) as a liquidator; and

(ii) the person is, in the opinion of IAASA, after consultation with the Director of Corporate Enforcement, a fit and proper person to act as a liquidator; and

(iii) the person is not:

- a member of a prescribed accountancy body; or
- a solicitor holding a current practising certificate issued by the Law Society of Ireland;
- a member of any other professional bodies recognised by IAASA for the purpose of Section 633 of the 2014 Act; and
- a person entitled under the laws of an EEA state (not being the State) to act as a liquidator in insolvency proceedings.

3. Criteria for Authorisation

As noted above, all applicants must have, prior to 1 June, 2015, obtained adequate relevant experience of the winding up of companies and knowledge of the law applicable thereto, and in addition, they must in the opinion of IAASA be "fit and proper" persons to act as liquidators.

IAASA wishes to emphasise that all matters relevant to the question of the applicant's fitness, probity, experience and knowledge will be considered and applicants are asked to disclose any special factors affecting their application or their past record when submitting an application.

The assessment of fitness, probity, experience and knowledge is not a mechanical exercise where compliance with a number of specific requirements ensures the grant of an authorisation. Rather, it is rather a judgement based on a review of the applicant's whole record and individual circumstances. A full disclosure of all relevant facts is therefore essential and non-disclosure of such facts will itself be taken into account when considering an application.

4. Experience and Knowledge

An applicant's CV should demonstrate continuing and current knowledge of and experience of the winding up of companies and a capacity to discharge the role of liquidator in an effective and competent manner. IAASA will be evaluating whether applicants have sufficient education, practical training and experience at a level that enables them to complete the functions of liquidator.

IAASA does not have any fixed policy in relation to the precise amount of experience and knowledge necessary. However, IAASA will have regard to a wide range of matters such as:

(a) Number of liquidation assignments worked on;

(b) Types of liquidation worked on (i.e Court, Members of Creditors Voluntary);

(c) Level and complexity of work carried out by the individual (e.g whether as liquidator, manager, senior, junior, etc);

(d) Types of issues dealt with including Court applications such as restriction or disqualification proceedings, fraudulent or reckless trading claims, asset recoveries etc.;

(e) Education and training received; and

(f) Any other relevant considerations.

While each case will be determined on its merits, IAASA will generally not consider an applicant suitable for authorisation unless the person:

(a) has worked at a senior level on not less than 30 liquidation assignments (including both court ordered and voluntary) during the period of 10 years immediately preceding the date on which he or she has made the application for authorisation of which 10 were in the most recent 5 years; and

(b) can demonstrate that they have practical experience of, and the capacity to deal with, all the key issues that a liquidator can be expected to face in the course of their duties in a competent and effective manner.

In determining the number of appointments held by an applicant no account shall be taken of certain cases involving appointments as liquidator by associates of the applicant and an applicant shall be treated as having acted as a liquidator in only one case in respect of appointments to two or more associated companies.

5. Fitness and Probity

All applicants must, in the opinion of IAASA be a fit and proper person to act as a liquidator. The matters which IAASA shall take into account in determining whether a person is fit and proper shall include, but are not limited to, the following:

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

(b) whether the applicant has contravened any statutory provision in connection with the winding up of companies;

(c) whether the applicant has engaged in any practices in the course of carrying on any trade, profession or vocation or in the course of the discharge of any functions relating to any office or employment which appear to be deceitful or oppressive or otherwise unfair or improper, whether unlawful or not, or which otherwise cast doubt upon his or her probity or competence for discharging the duties of a liquidator;

(d) whether the applicant has been the subject of any previous disciplinary findings, restrictions on activity or proceedings of civil or criminal nature.

IAASA will also be concerned with any practices in which an applicant has engaged in the course of any business or employment, whether or not related to the practice of winding up of companies (and whether or not those practices are unlawful in themselves), which do not conform with the best standards for professional conduct required from those acting as liquidators.

6. References

Note that your application must be accompanied by three references, two technical and one character reference, none of whom should be related to the applicant. If you wish, one of your technical referees may also give your character reference, but this is not required.

7. Applications by persons who have not been engaged in their own account in relevant work

IAASA recognises that some applicants for authorisation will not have engaged on his or her own account in relevant work. In deciding whether to grant authorisation to such persons, IAASA will seek to ensure that their past experience has prepared them sufficiently for the responsibilities of holding office outside the framework of supervision. If your application is based on experience of the winding up of companies gained other than on your own account in relevant work, your technical references must be from current or previous employers and must indicate the level of responsibility and competence achieved and the hours spent on work related to the winding up of companies. Such references must also show separately for the last 5 years those hours spent in the management or supervision of the conduct of cases relating to the winding up of companies on behalf of your employer. If, for any reason, you are unable to obtain confirmatory evidence, please explain.

8. Change of Information

If any change occurs in the information given, pending consideration of an application, details should be forwarded to IAASA without delay. For updates other than minor administrative updates, a change fee will apply in accordance with section 10 below.

9. Refusal of your Application

If IAASA proposes to refuse your application you will be served with a written notice to that effect. The notice will state the ground(s) on which the IAASA proposes to refuse your application and shall give particulars of the rights exercisable by you. Included in such rights is the right to make written representations to IAASA following any such refusal.

10. Fee structure

Initial application fee for authorisation as a Practitioner shall be €2,500. This fee must be forwarded with the application and is not returnable if an application is refused or withdrawn.

The renewal fee (currently intended to be every three years) shall be €1,000 with a requirement for a registrant to complete a return providing updated registration information to IAASA.

11. Contact information for IAASA

If you require further information, please contact IAASA as follows:

Address:

Irish Auditing & Accounting Supervisory Authority

Willow House

Millennium Park

Naas

Co Kildare

Telephone: 045-983600

Email: **liquidators@iaasa.ie**

Website: **https://www.iaasa.ie/**