



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 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 paragraph (5) of the Table to section 633 of the 2014 Act.

Paragraph (5) of the Table to section 633 empowers IAASA to grant authorisations to an individual who applies to IAASA within 30 months 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 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 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. This experience and knowledge should relate to periods prior to 1 June 2015 only. Experience and knowledge obtained after 1 June 2015 cannot be considered.

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 or 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 ten years ending 1 June 2015, of which ten were in the most recent five 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, prior to 1 June 2015.

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 written 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.

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. Fees must be paid by a direct bank transfer (in euro)

The Authorities bank details are:

Account Name: Irish Auditing & Accounting Supervisory Authority

Bank: AIB, 41 South Main St., Naas, Co. Kildare

BIC: AIBK IE2D

IBAN: IE65 AIBK 9332 3629 5880 17

Please include your full name as reference when making the payment to IAASA. Please include the payment reference number in your application form.

It is proposed that this application will need to be renewed annually. It is anticipated that the annual renewal fee will be €1,000.

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

W91 C6KT

Telephone: 045-983600

Email: liquidator@iaasa.ie

Website: www.iaasa.ie

