

Isle of Man

Appointments

There are several types of insolvency proceedings and anyone may administer an insolvency proceeding. There is, however, a list of court appointed trustees in bankruptcy, all of whom are required to be chartered accountants. There is also a list of people pre-approved for appointment as provisional liquidator and deemed official receiver by the court and again these are normally chartered accountants. The same IPs would be appointed for debtor insurance companies.

Qualifications

There are no stated qualifications but only individuals can undertake liquidations. In practice liquidators and receivers are usually chartered accountants or advocates.

Selection

In a members' voluntary liquidation by the members (usually directors), a creditors' voluntary liquidation primarily by the members but the creditors can override this. In liquidation by the court, the petitioning creditor may select an IP but this can be challenged. Any creditor may apply to the court within seven days of the appointment of the liquidator to challenge the appointment.

Supervision

In a members' voluntary liquidation, the members take a supervisory role. In a creditors' voluntary liquidation, the creditors as a body or the Committee of Inspection supervise the liquidator. In court-ordered liquidation, the court and Committee of Inspection supervise the liquidator. Similarly, in receivership, the appointing creditor or the court may supervise as appropriate. Any creditor may petition the court or ask a member of the Committee of Inspection to look into any particular aspect and this is not necessarily a legal right.

Remuneration

There is no statutory scale in operation although one exists in old schedules. An hourly rate would be charged by an IP for both members as well as creditors' voluntary liquidations. In court-ordered liquidations and receiverships it is a matter of negotiation between the court and the liquidator but the court will usually accept fees approved by a Committee of Inspection. A receiver will decide according to the terms set out in the debenture.

If the court or Committee of Inspection have approved a liquidator's remuneration then individual creditors cannot object; if the Committee of Inspection do not agree the fees the liquidator may apply to the court; and if the creditors at the first meeting do not agree to the proposed fees of the liquidator, the liquidator may well not take up the appointment.

Regulation

Liquidators are regulated by the Companies Acts, 1931–2004 Isle of Man, The Companies Winding Up Rules 1934, The Preferential Payments Act and various other acts involving employment, debentures, etc. Receivers are covered by the same and trustees in bankruptcy are covered by the Bankruptcy Acts and The Preferential Payments Acts. In practice the statutes are not effective.