

TECH 19/96

**INSOLVENCY GUIDANCE NOTE
PROXY FORMS**

Statement of Insolvency Practice 10 covering the use of proxy forms.

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INSOLVENCY GUIDANCE NOTE

PROXY FORMS

The Society of Practitioners of Insolvency have issued a further guidance note “Statement of Insolvency Practice 10: Proxy Forms England and Wales which is reproduced here. This gives guidance as to the best practice to be adopted by licensed insolvency practitioners and is persuasive rather than mandatory. Members are advised that a Court of Law may, when considering the adequacy of the work of an insolvency practitioner, take into account any pronouncements or publications which it thinks may be indicative of good practice. Insolvency guidance notes are likely to be so regarded. Members are also reminded that, by virtue of the ICAEW Bye-laws, ‘in determining whether or not a formal complaint has been proved, the Disciplinary Committee may have regard to any code of practice, ethical or technical, and to any regulations affecting member firms’.

A list of insolvency guidance notes and references is set out below for information. From the 1996 edition, insolvency guidance notes will not be reproduced in the Members Handbook. Guidance notes instead will be issued as Technical Releases and the Society of Practitioners of Insolvency will also issue them to its members.

<u>ICAEW Reference</u>	<u>Guidance</u>	<u>Insolvency Guidance Notes</u>	<u>SPI Ref</u>
TR 732 and 1995 Handbook section 3.1000	Explanatory foreword		-
TR 733 and 1995 Handbook section 3.1001	Conduct at meetings of creditors held pursuant to s98 IA 1986		SIP 8
TR 734 and 1995 Handbook section 3.1002	Members’ voluntary liquidations		-
TR 740 and 1995 Handbook section 3.1003	An administrative receiver’s responsibility for the company’s records		SIP 1
TR 766 and 1995 Handbook section 3.1004	Minimum standards of practice		-
TR 775 and 1995 Handbook section 3.1005	A liquidator’s investigation into the affairs of an insolvent company		SIP 2
1995 Handbook section 3.1006	Individual voluntary arrangements		SIP 3
TR 801 and 1995 Handbook section 3.1007	Preparation of insolvency office holders’ receipts and payments accounts		SIP 7
SPI 1/92 and 1995 Handbook section 3.1008	Disqualification of directors – statutory reports		SIP 4
SPI 1/92 and 1995 Handbook section 3.1009	Non-preferential claims by employees dismissed without proper notice by insolvent employers		SIP 5
SPI 1/92 and 1995 Handbook section 3.1010	Treatment of directors’ claims as ‘employees’ in insolvency administrations		SIP 6
Tech 18/96	Remuneration of insolvency office holders		SIP 9
Tech 19/96	Proxy Forms		SIP 10
Tech 20/96	The handling of funds in formal insolvency appointments		SIP 11
Tech 21/96	Records of meetings in formal insolvency proceedings		SIP 12

STATEMENTS OF INSOLVENCY PRACTICE AND INSOLVENCY TECHNICAL REMINDERS

EXPLANATORY FOREWORD

This foreword explains the scope and authority of Statements of Insolvency Practice and Insolvency Technical Reminders approved by the Council of the Society of Practitioners of Insolvency (SPI). It should be read in conjunction with the Statements of Insolvency Practice and Insolvency Technical Reminders to which it forms a collective preface.

1 Statements of Insolvency Practice

- 1.1 Statements of Insolvency Practice are issued to members of SPI and give guidance as to the best practice to be adopted by authorised insolvency practitioners having regard to the relevant legislation. They are adopted by each of the Recognised Professional Bodies for promulgation as part of each RPB's regulatory regime and are issued to insolvency practitioners authorised by the Secretary of State for Trade and Industry.
- 1.2 Members are reminded that SPI Statements of Insolvency Practice are for the purpose of guidance only and may not be relied upon as definitive statements. No liability attaches to the Council or anyone involved in the preparation or publication of Statements of Insolvency Practice.

2 Insolvency Technical Reminders

- 2.1 Insolvency Technical Reminders are issued to members of SPI and provide information on compliance with specific aspects of the Insolvency Acts, Insolvency Rules and Insolvency Regulations in force from time to time. They are passed to the Recognised Professional Bodies for promulgation to their members authorised to act as insolvency practitioners and to the Insolvency Service of the Department of Trade and Industry for issue to insolvency practitioners authorised by the Secretary of State.
- 2.2 Members are reminded that SPI Insolvency Technical Reminders are for purposes of information only and may not be relied upon as definitive statements of the law. No liability attaches to the Council or anyone involved in the preparation of Insolvency Technical Reminders.

Statements of Insolvency Practice issued after 1 January 1996 and Insolvency Technical Reminders are issued following consultation between representatives of the Department of Trade and Industry Insolvency Service, the Recognised Professional Bodies and the Society of Practitioners of Insolvency meeting as a Best Practice Liaison Committee.

Issued June 1996

STATEMENT OF INSOLVENCY PRACTICE 10 (E&W)

PROXY FORMS

ENGLAND AND WALES

1. This statement of insolvency practice is one of a series issued by the Council of the Society with a view to harmonising the approach of members to questions of insolvency practice. It should be read in conjunction with the Explanatory Foreword to the Statements of Insolvency Practice and Insolvency Technical Reminders issued in June 1996. Members are reminded that SPI Statements of Insolvency Practice are for the purpose of guidance only and may not be relied upon as definitive statements. No liability attaches to the Council or anyone involved in the preparation or publication of Statements of Insolvency Practice.
2. This statement applies to England and Wales only.
3. Rule 8.2 of the Insolvency Rules 1986 stipulates that, when notice is given of a meeting to be held in insolvency proceedings and forms of proxy are sent out with the notice, no form so sent out shall have inserted in it the name or description of any person. No proxy form, therefore, should have inserted in it the name or description of any person for appointment as an insolvency office holder, either solely or jointly, or for appointment as a member of a committee, or as proxy-holder.
4. Members who send out proxy forms should ensure that no part of the form is pre-completed with the name or description of any person (except for the title of the proceedings, which may be inserted for the convenience of the person completing the form).
5. When a member advises on the sending out of proxy forms he is required to take all reasonable steps to ensure that no part of the form is pre-completed with the name or description of any person. If the person whom a member is advising refuses to accept the member's advice in this regard the member should ensure that he has put his advice in writing so that he can demonstrate that he has given advice consistent with the law.