

EXPLANATORY MEMORANDUM TO THE INSOLVENCY (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2006

2006 No. 23

1. This explanatory memorandum has been prepared by the Department of Enterprise, Trade and Investment (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. **Description**

The Regulations amend the Insolvency Regulations (Northern Ireland) 1996 (S.R. 1996 No. 574 as amended by S.I. 2004/355) (“the 1996 Regulations”) to allow for payments into and out of the Insolvency Account by electronic transfer, and for crediting of all interest received on individual company and bankruptcy estate accounts. Other amendments are –

- The setting of a time period for which an administrator must retain company records before disposing of them
- Giving the Department the right to seek information from administrators about undistributed monies
- The setting of rates chargeable by the official receiver for services provided while acting as interim receiver, provisional liquidator, liquidator or trustee
- Giving those with a direct interest the right to information from insolvency practitioners about time spent and rates charged

3. **Matters of Special Interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Background**

- 4.1 In England and Wales it has been possible to make payments into and out of the Insolvency Services Account by electronic transfer since 31st March 2000 when the Insolvency (Amendment) Regulations 2000 (S.I. 2000/485) which amended the Insolvency Regulations 1994 (S.I. 1994/2507) came into force. The Department wishes to amend the 1996 Regulations to bring in a similar facility for Northern Ireland.
- 4.2 The Department also wishes to amend the 1996 Regulations so that any interest earned on individual company and bankruptcy estate accounts in the Insolvency Account will be credited to them. Under the present Regulations interest is only credited where the existing balance in an account exceeds £2,000.

- 4.3 Other areas covered by the regulations, that is requirements for retention of company records and provision of information by administrators, the setting of rates chargeable by the Official Receiver, and the right to information from insolvency practitioners about time spent and rates charged represent the replication for Northern Ireland of provisions contained in the Insolvency (Amendment) Regulations 2005 (S.I. 2005/512).

5. Extent

These Regulations apply to Northern Ireland only.

6. European Convention on Human Rights

As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy Background

- 7.1 These Regulations will enable payments to be made by electronic transfer into and out of the Insolvency Account kept by the Department under Article 358 of the Insolvency (Northern Ireland) Order 1989, S.I. 1989 /2405 (NI.19).
- 7.2 It will remain possible for payments to be made into and out of the Insolvency Account by liquidators and trustees using the paper based system provided for in the current 1996 Regulations. The Department's aim is to give liquidators and trustees the option of making such payments electronically.
- 7.3 The Insolvency Account is an account maintained by the Insolvency Service with the Bank of Ireland which is made up of separate estate accounts containing the proceeds from the sale of assets in bankruptcies and liquidations. Regulations 9 and 24 of the 1996 Regulations require the Department to pay interest at the rate of 3.5% per annum on an amount over £2,000 standing to the credit of a company or the estate of a bankrupt in the Insolvency Account.
- 7.4 These Regulations replace regulations 9 and 24 of the current 1996 Regulations to provide for all interest earned on a company or bankruptcy estate account to be credited to that account.
- 7.5 Consultation with insolvency practitioners and their representative bodies in Northern Ireland about an initial draft of the Regulations containing those provisions which will permit payment by electronic means and crediting of all interest earned to estate accounts took place between 15 October and 12 November 2004. No adverse comments were received. Consultation with the insolvency practitioners and their

representative bodies on the full set of draft Regulations took place between 9 September and 7 October 2005. No comments were received.

8. Impact

- 8.1 A Regulatory impact assessment has not been prepared for these Regulations as they have no significant impact on business, charities or voluntary bodies.
- 8.2 There will be an impact on the public sector as the interest received on accounts with £2,000 or less will no longer be paid to the Consolidated Fund but this impact will be negligible.

9. Contact

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