

**EXPLANATORY MEMORANDUM TO**  
**THE INSOLVENCY PROCEEDINGS (FEES) (AMENDMENT) ORDER 2008**

**2008 No. 714**

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The Insolvency Proceedings (Fees) Order 2004 (S.I. 2004/593) as amended (“the Principal Order”) prescribes, amongst other things, the fee to be paid to an insolvency practitioner appointed by the court under section 273(2) to prepare a report under section 274 of the Insolvency Act 1986 (article 5); the amounts payable as deposits in respect of bankruptcy or winding up petitions (article 6); and the fees payable in respect of the performance by the official receiver of his general duties as official receiver on the making of a winding up order and by the Secretary of State of his general duties on the making of a bankruptcy or winding up order calculated as a percentage of total chargeable receipts up to a maximum fee of £100,000 (Schedule 2).

2.2 The Insolvency Proceedings (Fees) (Amendment) Order 2008 (“the Order”) makes further amendments to the Principal Order. It increases the amount of all the deposits payable pursuant to article 6 of the Principal Order, including the deposit payable in respect of a bankruptcy petition, the latter increase generating a corresponding increase to the amount to be paid to the insolvency practitioner appointed by the court in bankruptcy proceedings to prepare a report under section 274. It also increases the fee (W1) to be paid to the official receiver for the performance of his general duties as official receiver on the making of a winding up order from £2,090 to £2,160. The Order reduces the maximum fee payable in respect of the Secretary of State’s general duties on the making of a bankruptcy order (Fee B2) or winding up order (Fee W2) from £100,000 to £80,000.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

There are no matters of special interest to the Joint Committee on Statutory Instruments

4. **Legislative Background**

The Order is made pursuant to sections 414 and 415 of the Insolvency Act 1986. The powers are exercisable in each case by the Lord Chancellor with the sanction of the Treasury.

**5. Extent**

This instrument applies to England and Wales.

**6. European Convention on Human Rights**

No statement is required because the Order, although required to be laid after being made, is not subject to any further parliamentary proceedings and does not amend primary legislation.

**7. Policy background**

7.1 The new financial regime implemented on 1 April 2004 for the Insolvency Service and provided for by the coming into force of the Enterprise Act 2002, included a new fee regime that was intended to be simpler, fairer and more transparent and to match income to costs in line with the Treasury Fees and Charges Guide. There is a requirement under the Treasury Fees and Charges Guide to review fee levels annually.

7.2 All the increases referred to in paragraph 2.1 and 2.2 above are increases in fees applied in accordance with the principles referred to above, that costs should be matched by income, and which are accordingly increases in line with inflation.

**8. Impact**

No Regulatory Impact Assessment has been prepared for this Order.

**9. Contact**

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