
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision regarding the payment of fees in relation to the authorisation of insolvency practitioners and the operation of the Insolvency Account. Article 361A of the Insolvency (Northern Ireland) Order 1989 (“the 1989 Order”) under which this Order is made was inserted into the 1989 Order by Article 26 of the Insolvency (Northern Ireland) Order 2005 (“the 2005 Order”). Copies of the regulatory impact assessment for the 2005 Order are available from the Legislation Unit, The Insolvency Service, Fermanagh House, 20A Ormeau Avenue, Belfast, BT2 8NJ.

Article 2 of this Order makes provision for the payment of fees by bodies applying for recognition pursuant to Article 350 of the 1989 Order and by bodies recognised pursuant to Article 350 of the 1989 Order in respect of the maintenance of their recognition under that Article.

Article 3(3) of this Order makes provision for the payment of a fee in respect of an application pursuant to Article 351 of the 1989 Order for an authorisation to act as insolvency practitioner. The fee to accompany an application for authorisation to act as an insolvency practitioner prior to the coming into operation of this Order was £100. This fee had remained at its current level for over 13 years. The level of the fee no longer covered the costs associated with the processing of applications and it was accordingly decided that it should be raised to £1,025 to cover the costs associated with deciding applications for authorisation. This fee is roughly comparable with the fees charged to members by bodies recognised pursuant to Article 350 of the 1989 Order.

Article 3 also makes provision for the payment of fees in respect of the maintenance of authorisations granted pursuant to Article 352 of the 1989 Order. Articles 3(1) and 3(2) make provision for the payment of fees by persons who are holders of an authorisation on the commencement date in respect of the maintenance of those authorisations. A fee is introduced by Article 3(4) which is charged on each anniversary of the granting of an authorisation to act as an insolvency practitioner whilst that authorisation remains in force. This fee is designed to recover the costs associated with the monitoring of insolvency practitioners authorised by the Department of Enterprise, Trade and Investment including the making of monitoring visits and the handling of complaints. Monitoring visits are made on a regular basis by the Insolvency Practitioners Unit of the Insolvency Service. The Unit carries out checks to ensure that those authorised to act as insolvency practitioners by the Department continue to be fit and proper to hold an authorisation. Article 3(5) makes provision for reduction of the fee in respect of the maintenance of the authorisation in cases where the authorisation has less than a year to run.

Article 4 and the Schedule to the Order make provision for the payment of fees in relation to the holding with the Department of an account relating to monies held in the Insolvency Account in liquidations and bankruptcies. Provision is also made for the payment of fees in relation to the issue of cheques and other instruments and the making of electronic transfers of funds held in the Insolvency Account. Article 5 of the Order makes provision for the payment of VAT where this is payable on fees.

The Schedule to the Order also makes provision for the circumstances where an account relating to monies held in the Insolvency Account will no longer be regarded as being “maintained”. Where an account ceases to be maintained this terminates liability for the payment of fees under the Order.