

**EXPLANATORY MEMORANDUM TO
THE INSOLVENCY PRACTITIONERS AND INSOLVENCY SERVICES ACCOUNT
(FEES) (AMENDMENT) ORDER 2008**

2008 No. 3

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**

The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003 (S.I. 2003/3363), (“the principal Order”), makes provision, amongst other things, for the payment of fees to the Secretary of State in respect of his function pursuant to section 391 of the Insolvency Act 1986, of the recognition of bodies concerned with the professional supervision of insolvency practitioners. The new Order substitutes a new paragraph (2) for paragraphs (2), (2A) and (2B) of article 2 of the principal Order and makes provision for increases in the fees to be paid by bodies recognised in respect of the maintenance of their recognition under section 391 from £200 per member to £207 per member. The provisions of article 2(2B) of the principal Order require payment to be made on or before 1st April 2008 by reference to the multiplicand which currently applies, that is to say £200, before it is amended by this Order. Article 4 provides that no further payment is required where a body has, prior to this Order coming into force, already made a payment under the principal Order by reference to its membership at 1st January 2008.

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**

Section 270 of the Enterprise Act 2002 introduced section 415A into the Insolvency Act 1986, under which the Order is made. Section 415A made provision for the payment of fees in relation to the recognition of professional bodies by the Secretary of State pursuant to existing section 391 of the 1986 Act. The Principal Order was the earliest order made under section 415A of the 1986 Act and has itself already been amended by S.I. 2004/476, S.I. 2005/523, S.I. 2005/3524 and S.I. 2007 /133.

5. **Extent**

This instrument applies to England, Wales and Scotland.

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 financial regime implemented on 1 April 2004 for the Insolvency Service 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 The fee for recognition of professional bodies is currently £200 per member and is levied on all insolvency practitioners through their recognised professional bodies. That fee was provided for in the 2005/06 fee review as part of a two-step increase to achieve full cost recovery. The analysis of cost and time recording shows that the fee charged based on cost should now be £207. The increase is in line with inflation based on a GDP deflator for 2007/2008 of 3.25%. The Fees and Charges Guide provides that the financial objective should normally be full cost recovery. The Financial Memorandum of the Insolvency Service reiterates the Fees and Charges Guidance stating that the Service shall seek to match income with resource expenditure, avoiding surpluses and deficits.

7.3 The reasons for both increases have been fully explained and notified to the professional bodies.

8. Impact

A Regulatory Impact Assessment was prepared for the Enterprise Act 2002 but no regulatory impact assessment has been prepared for this Order.

9. Contact

Lesley Beech at the Insolvency Service: tel. no. 020 7291 6704 or e-mail: lesley.beech@insolvency.gsi.gov.uk can answer any queries regarding the instrument.