

2009 No. 487

INSOLVENCY

FEEES

INSOLVENCY PRACTITIONERS

**The Insolvency Practitioners and Insolvency Services Account
(Fees) (Amendment) Order 2009**

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| <i>Made</i> | - - - - | <i>2nd March 2009</i> |
| <i>Laid before Parliament</i> | | <i>6th March 2009</i> |
| <i>Coming into force</i> | | <i>6th April 2009</i> |

The Secretary of State, in exercise of the powers conferred by sections 414(5) and 415A(1), (2), (3) and (4)(b) of the Insolvency Act 1986(a), makes the following Order:—

Citation, commencement and revocation

1.—(1) This Order may be cited as the Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) Order 2009 and comes into force on 6th April 2009.

(2) The Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) (No.2) Order 2005(b) and the Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) Order 2008(c) are revoked.

Amendment to the Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003

2. The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003(d) (“the principal Order”) is amended as set out below.

3. In article 2 of the principal Order, for paragraph (2), substitute—

“(2) On or before 6th April 2009 and on or before 6th April in each subsequent year, there shall be paid to the Secretary of State by each body recognised pursuant to section 391 in respect of the maintenance of that body’s recognition pursuant to that section, a fee calculated by multiplying £300 by the number of persons who as at the 1st January in that year were authorised to act as insolvency practitioners by virtue of membership of that body.”.

(a) 1986 c.45; section 415A was inserted by the Enterprise Act 2002 (c. 40), section 270(1).
(b) S.I. 2005/3524.
(c) S.I. 2008/3.
(d) S.I. 2003/3363, relevant amending instruments are S.I. 2008/3 and 2008/672.

4.—(1) This article applies to a body recognised pursuant to section 391 of the Insolvency Act 1986 that—

- (a) pursuant to article 2(2) of the principal Order (as it stood before the coming into force of this Order) makes a payment by reference to the number of persons who as at 1st January 2009 were authorised to act as insolvency practitioners by virtue of membership of that body; and
- (b) makes that payment in the period commencing on 1st January 2009 and ending immediately before 6th April 2009.

(2) The substitution of article 2(2) of the principal Order by article 3 of this Order shall not require a body to which this article applies to make any further payment by reference to the number of persons who as at 1st January 2009 were authorised to act as insolvency practitioners by virtue of membership of that body.

5. In each of paragraphs (3), (4) and (5) of article 3 of the principal Order, for “£2,550” substitute “£3,250”.

6. In the Table of fees in paragraph 2 of the Schedule to the principal Order—

- (a) in relation to fee No. 1 (banking fee: winding up by the court and bankruptcy), for the amount of the fee in the third column, substitute “£18”;
- (b) in relation to fee No. 2 (banking fee: voluntary winding up), for the amount of the fee in the third column, substitute “£23”;
- (c) in the first column, between the reference to fee No. 2B and the reference to fee No. 3, insert a reference to fee No 2C;
- (d) for the description of fee No. 2C in the second column and the circumstances in which it is payable, insert—

“Payment of unclaimed dividends or other money – voluntary winding up

Where any money is paid into the Insolvency Services Account pursuant to regulation 18(2)(a), that payment shall be accompanied by a fee in respect of each company to which it relates of—”;

- (e) for the amount of fee No. 2C in the third column, insert “£25.00”;
- (f) in relation to fee No.3 (cheque etc issue fee), for the amount of the fee in the third column payable in respect of item (ii), substitute “£1”.

2nd March 2009

Pat McFadden
Minister of State for Employment Relations and Postal affairs
Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003 (“the principal Order”) by increasing fees to be paid in connection with the recognition by the Secretary of State of insolvency practitioners’ professional bodies and in connection with authorisation by the Secretary of State to act as an insolvency practitioner. It inserts a new fee where unclaimed or undistributed dividends or other monies are paid into the Insolvency Services Account following a voluntary winding up of a company and increases “banking fees” (i.e. periodic fees payable out of insolvent estates in respect of the payment of money into the Insolvency Services Account).

Article 3 of this Order replaces paragraph (2) of article 2 of the principal Order and increases the fees, from £207 per member to £300 per member, to be paid in connection with the maintenance of recognition under section 391 of the Insolvency Act 1986 by bodies recognised pursuant to that section as insolvency practitioners’ professional bodies. Article 2(2) of the principal Order, before its replacement by this Order, required payment to be made on or before 1st April 2009 at the rate of £207 per member. Article 4 of this Order provides that no further payment is required where a body has, before this Order comes into force, already made a payment under the principal Order by reference to its membership at 1st January 2009.

Article 3(3) of the principal Order makes provision for the payment of a fee in connection with an application pursuant to section 393 of the Insolvency Act 1986 for an authorisation to act as insolvency practitioner. Article 3(4) and (5) of that Order makes provision for the payment of fees in connection with the maintenance of authorisations granted pursuant to section 393. Article 5 of this Order increases the fee to accompany an application for authorisation to act as an insolvency practitioner and the annual fee for the maintenance of such an authorisation from £2,550 to £3,250. Article 3(5) of the principal Order continues to make provision for reduction of the fee in respect of the maintenance of authorisation in cases where the authorisation has less than a year to run.

Article 5 of, and the Schedule to, the principal Order make provision for the payment of fees in respect of the operation of the Insolvency Services Account. Article 6(a) and (b) of this Order increases the fee for banking funds into the Insolvency Services Account, from £15 to £18 in respect of bankruptcy and winding up by the court and from £20 to £23 in respect of voluntary winding up.

Regulation 18 of the Insolvency Regulations 1994 (S.I. 1994/2507) requires, in the case of a company wound up by the court, and permits, in the case of a voluntarily winding up, a liquidator of a company which has been dissolved to pay into the Insolvency Services Account any unclaimed or undistributed dividends held by him (“unclaimed funds”).

Article 6(c), (d) and (e) of this Order inserts a new fee 2C into the Schedule to the principal Order which is payable upon the making of any payment of unclaimed funds into the Insolvency Services Account under regulation 18 following the voluntary winding up of a company. The fee is £25 for each payment into the Account in respect of each company to which the payment relates.

Article 6(f) increases from 80p to £1 the fee payable for the issue or reissue of any cheque, money or payable order in respect of monies in the Insolvency Services Account.

A regulatory impact assessment was prepared for the Enterprise Act 2002. This deals with the restructuring of the system of insolvency fees. Copies of this assessment are available from the Policy Unit, The Insolvency Service, 21 Bloomsbury Street, London, WC1B 3SS. No regulatory impact assessment has been prepared for this Order.

STATUTORY INSTRUMENTS

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(Fees) (Amendment) Order 2009

£4.00