
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 53

INSOLVENCY

**The Insolvency Practitioners and Insolvency
Account (Fees) Order (Northern Ireland) 2006**

Made - - - - *16th February 2006*

Coming into operation *27th March 2006*

The Department of Enterprise, Trade and Investment⁽¹⁾, in exercise of the powers conferred upon it by Article 361A(1), (2) and (3) of the Insolvency (Northern Ireland) Order 1989⁽²⁾ and of every other power enabling it in that behalf, with the concurrence of the Department of Finance and Personnel, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Insolvency Practitioners and Insolvency Account (Fees) Order (Northern Ireland) 2006 and shall come into operation on 27th March 2006 (“the commencement date”).

(2) In this order “the 1989 Order” means the Insolvency (Northern Ireland) Order 1989.

Fees payable in connection with the recognition of professional bodies pursuant to Article 350 of the 1989 Order

2.—(1) Every application by a body for recognition pursuant to Article 350 of the 1989 Order shall be accompanied by a fee of £4,500.

(2) On or before 31st May next following the commencement date and on or before 1st April in each subsequent year there shall be paid to the Department by each body recognised pursuant to Article 350 of the 1989 Order in respect of the maintenance of that body’s recognition pursuant to Article 350 of the 1989 Order, a fee calculated by multiplying £50 by the number of persons who as at the preceding 1st January in that year were authorised to act as insolvency practitioners by virtue of membership of that body.

(3) Each body recognised pursuant to Article 350 of the 1989 Order shall within one month of the commencement date and on or before 31st January in each subsequent year submit to the

(1) Formerly the Department of Economic Development; see S.I. 1999/283 (N.I. 1), Article 3(5)

(2) S.I. 1989/2405 (N.I.19); Article 361A is inserted by Article 26 of the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))

Department a list of its members who as at 1st January in that year were authorised to act as insolvency practitioners by virtue of membership of that body.

Fees payable in connection with authorisations by the Department under Article 352 of the 1989 Order

3.—(1) Every person, who on the commencement date is the holder of an authorisation to act as an insolvency practitioner granted by the Department pursuant to Article 352 of the 1989 Order shall within 7 days of that date pay to the Department a fee in respect of the maintenance of that authorisation calculated in accordance with paragraph (2).

(2) The fee payable by virtue of paragraph (1) shall be calculated by multiplying the sum of £1,025, less the sum paid by the holder of the authorisation under Article 352 of the 1989 Order when he applied for his authorisation, by the number of days in the period starting with the commencement date and ending on 31st December 2006 and dividing the result by 365.

(3) Every application made to the Department pursuant to Article 351 of the 1989 Order for authorisation to act as an insolvency practitioner shall be accompanied by a fee of £1,025.

(4) Subject to paragraph (5), every person who holds an authorisation granted by the Department pursuant to Article 352 of the 1989 Order to act as an insolvency practitioner shall, on or before each anniversary of the granting of that authorisation when it is in force, pay to the Department in connection with the maintenance of that authorisation a fee of £1,025.

(5) Where on the relevant anniversary the authorisation mentioned in paragraph (4) has less than a year to run, the fee shall be calculated by multiplying £1,025 by the number of days that the authorisation has to run (starting with the day of the anniversary) and dividing the result by 365.

Fees payable in connection with the operation of the Insolvency Account

4. There shall be payable in connection with the operation of the Insolvency Account fees as provided for in the Schedule.

Value Added Tax

5. Where Value Added Tax is chargeable in respect of the provision of a service for which a fee is prescribed by any provision of this Order, there shall be payable in addition to that fee the amount of the Value Added Tax.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 16 February 2006

L.S.

Michael J Bohill
A senior officer of the
Department of Enterprise, Trade and Investment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The Department of Finance and Personnel hereby concurs with the foregoing Order.
Sealed with the Official Seal of the Department of Finance and Personnel on 16 February 2006

L.S.

Mary McIvor
A senior officer of the
Department of Finance and Personnel

SCHEDULE 1

Article 4

Fees payable in connection with the operation of the Insolvency Account

Fees payable in connection with the operation of the Insolvency Account

1.—(1) In this Schedule a reference to a numbered regulation is to the regulation so numbered in the Insolvency Regulations (Northern Ireland) 1996⁽³⁾.

(2) In this Schedule “payment date” means any of the following dates in any year—

- (a) 1st January;
- (b) 1st April;
- (c) 1st July; and
- (d) 1st October.

(3) In this Schedule “working day” means any day other than a Saturday, Sunday or public holiday in Northern Ireland.

(4) Subject to paragraphs (5) and (6), for the purposes of this Schedule an account is “maintained with the Department in respect of monies which may from time to time be paid into the Insolvency Account” where in a winding up by the High Court or a bankruptcy the Department creates or has already created a record in relation to the winding up or, as the case may be, the bankruptcy for the purpose of recording payments into and out of the Insolvency Account relating to the winding up or, as the case may be, the bankruptcy.

(5) An account ceases to be maintained with the Department in the case of a winding up by the High Court or a bankruptcy where—

- (a) the liquidator or the trustee has filed a receipts and payments account with the Department pursuant to regulation 14 or regulation 29;
- (b) the account contains, or is accompanied by, a statement that it is a final receipts and payments account; and
- (c) four working days have elapsed since the requirements of paragraphs (a) and (b) have been met,

but an account is revived in the circumstances mentioned in paragraph (6).

(6) The circumstances referred to in paragraph (5) are—

- (a) the receipt by the Department of notice in writing given by the trustee or liquidator for the revival of the account; or
- (b) the payment into the Insolvency Account of any sums to the credit of the company or, as the case may be, the estate of the bankrupt,

and on the occurrence of either of the circumstances mentioned above, an account is “maintained with the Department in respect of monies which may from time to time be paid into the Insolvency Account”.

(7) References to a bankruptcy include a bankruptcy under the Bankruptcy Acts (Northern Ireland) 1857 to 1980⁽⁴⁾ and references to a winding up include a winding up under the provisions of the Companies (Northern Ireland) Order 1986⁽⁵⁾.

⁽³⁾ S.R. 1996 No. 574 as amended by S.I. 2004/355 and by S.R. 2006 No. 23

⁽⁴⁾ 1857 c. 60, 1872 c. 57, 1872 c. 58, 1929 c. 1 (N.I.), 1963 c. 23 (N.I.), S.I. 1980/561 (N.I. 4)

⁽⁵⁾ S.I. 1986/1032 (N.I. 6)

Fees payable in connection with the operation of the Insolvency Account

2. Fees shall be payable in relation to the operation of the Insolvency Account (including payments into and out of that account) in the circumstances set out in the following table—

Table

<i>No. of fee</i>	<i>Description of fee and circumstances in which it is payable</i>	<i>Amount</i>
1.	<p>Banking fee; winding up by the High Court and bankruptcy</p> <p>Where in any bankruptcy or winding up by the High Court an account is maintained with the Department in respect of monies which may from time to time be paid into the Insolvency Account, there shall be payable out of the estate of the bankrupt or, as the case may be, the assets of the company on each payment date where the liquidator or the trustee is not the official receiver, a fee of—</p>	£15
2.	<p>Cheque etc. issue fee</p> <p>Where a cheque, money order or payable order in respect of monies in the Insolvency Account is issued or reissued on the application of—</p> <p>(a) a liquidator pursuant to regulation 7 or 8;</p> <p>(b) a trustee pursuant to regulation 22 or 23; or</p> <p>(c) any persons claiming money in that account pursuant to regulation 33,</p> <p>there shall be payable out of the assets of the company, the estate of the bankrupt or, as the case may be, by the claimant—</p> <p>(i) where the application is made before the commencement date, a fee in respect of that</p>	<p>£0.65</p> <p>£0.80</p>

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<i>No. of fee</i>	<i>Description of fee and circumstances in which it is payable</i>	<i>Amount</i>
	cheque, money order or payable order of— (ii) where the application is made on or after the commencement date, a fee in respect of that cheque, money order or payable order of—	
3.	BACs etc. fee On the making or remaking through the Bankers Automated Clearing System or any other electronic funds system of a transfer in respect of funds held in the Insolvency Account on an application made after 27th March 2006 by— (d) a liquidator pursuant to regulations 7 or 8; (e) a trustee pursuant to regulations 22 or 23; or (f) any person claiming any monies held in that Account pursuant to regulation 33, there shall be payable out of the assets of the company, the estate of the bankrupt or, as the case may be, by the claimant a fee in respect of that transfer of—	£0.15

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.