

2006 No. 54

INSOLVENCY

The Insolvency (Fees) Order (Northern Ireland) 2006

Made - - - - - *16th February 2006*

Coming into operation - - - - - *27th March 2006*

*To be laid before Parliament under paragraph 7(3) of the
Schedule to the Northern Ireland Act 2000*

The Department of Enterprise, Trade and Investment(a), with the concurrence of the Department of Finance and Personnel makes the following Order in exercise of the powers conferred by Article 361(1), (3) and (4) of the Insolvency (Northern Ireland) Order 1989(b).

Citation and commencement

1. This Order may be cited as the Insolvency (Fees) Order (Northern Ireland) 2006 and shall come into operation on 27 March 2006.

Interpretation

2.—(1) In this Order

“the commencement date” is the date referred to in Article 1;

“individual voluntary arrangement” means a voluntary arrangement pursuant to Chapter II of Part VIII of the 1989 Order;

“the 1989 Order” means the Insolvency (Northern Ireland) Order 1989; and

“the Rules” means the Insolvency Rules (Northern Ireland) 1991(c) (any reference to a numbered rule being to the rule so numbered in the Rules).

(2) A reference to a fee by means of letters and a number is a reference to the fee so designated in the table in Schedule 2.

Revocations and Transitional Provisions

3. The statutory provisions listed in Schedule 1 are revoked to the extent set out in that Schedule.

(a) Formerly the Department of Economic Development; see Article 3(5) of the Departments (Northern Ireland) Order 1999 S.I. 1999/283 (N.I. 1)

(b) S.I.1989/2405 (N.I. 19)

(c) S.R.1991 No.364 as amended by S.R. 1994 No. 26, S.R. 1995 No. 291, S.R. 2000 No. 247, S.R. 2002 No. 261, S.R. 2003 No. 549, S.I. 2004/355 and S.R. 2006 No. 47

Fees payable in connection with bankruptcies, individual voluntary arrangements, deeds of arrangement and winding up

4.—(1) Subject to paragraphs (2) and (3) and Article 6, the fees payable to the Department in respect of proceedings under Parts I to X of the 1989 Order and the performance by the official receiver or the Department of functions under those Parts shall be determined in accordance with the provisions of Schedule 2.

(2) Paragraph (1) and the provisions of Schedule 2 shall not apply to a bankruptcy where the bankruptcy order was made before the commencement date except insofar as is necessary to enable the charging of fees IVA1, IVA2 or IVA3 in the case of an individual voluntary arrangement proposed by, or entered into by the bankrupt.

(3) Paragraph (1) and the provisions of Schedule 2 shall not apply to a winding up by the High Court where the winding-up order was made before the commencement date.

Fees payable to an insolvency practitioner appointed under Article 247

5. Where the High Court appoints an insolvency practitioner under Article 247(2) of the 1989 Order to prepare and submit a report under Article 248 of that Order the Official Receiver shall, on submission of the report, pay to the practitioner a fee of £310 (that sum being inclusive of Value Added Tax).

Reduction and refund of fees – individual voluntary arrangement following bankruptcy

6. Where proposals made by a bankrupt for an individual voluntary arrangement with the official receiver acting as supervisor are approved by the bankrupt's creditors, fee B1 shall be reduced to £462.50 and any payments made in respect of fee B1 which exceed that amount shall be refunded to the credit of the estate of the bankrupt.

Value Added Tax

7. Where Value Added Tax is chargeable in respect of the provision of a service for which a fee is prescribed by virtue of any provision of this Order (other than Article 5), 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



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

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



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

SCHEDULE 1

Article 3

Revocations

<i>Reference</i>	<i>Extent of revocation</i>
The Insolvency (Fees) Order (Northern Ireland) 1991(a)	The whole Order is revoked except in relation to any case where a winding-up or bankruptcy order is made under the 1989 Order before the commencement date but in such a case the Order shall continue to have effect with the deletion of all the entries in the Schedule to the Order except, in relation to a winding up by the High Court, that relating to Fee 8 in Part 1 of the Schedule and, in relation to a bankruptcy, that relating to Fee 19 in Part 2 of the Schedule.
The Insolvency (Fees) (Amendment) Order (Northern Ireland) 1992(b)	The whole Order.
The Insolvency (Fees) (Amendment) Order (Northern Ireland) 1996(c)	The whole Order.

SCHEDULE 2

Article 4

Fees payable in Insolvency Proceedings

1.—(1) In this Schedule

“the bankruptcy ceiling” means in relation to a bankruptcy, the sum which is arrived at by adding together—

- (a) the bankruptcy debts required to be paid under the Rules;
- (b) any interest payable by virtue of Article 300(4) of the 1989 Order; and
- (c) the expenses of the bankruptcy as set out in Rule 6.222 other than—
 - (i) any sums spent out of money received in carrying on the business of the bankrupt; and
 - (ii) fee B2 in the Table set out in paragraph 2;

“chargeable receipts” means those sums which are paid into the Insolvency Account after first deducting any amounts paid into the Insolvency Account which are subsequently paid out to secured creditors in respect of their securities or in carrying on the business of the company or the bankrupt;

“the insolvency legislation” means the Insolvency (Northern Ireland) Order 1989, the Insolvency Rules (Northern Ireland) 1991 and the Insolvency Regulations (Northern Ireland) 1996(d); and

“the registrar” means the registrar appointed under Article 210(1) of the 1989 Order and any reference to the register is to the register to be kept by him under Article 212 of that Order.

(2) In this Schedule, references to the performance of the “general duties” of the official receiver on the making of a winding-up or bankruptcy order—

(a) S.R. 1991 No. 385
(b) S.R. 1992 No. 398
(c) S.R. 1996 No. 576
(d) S.R. 1996 No. 574 as amended by S.R. 2006 No. 23

- (a) include the payment by the official receiver of any fees, costs or disbursements except for those associated with the realisation of assets or the distribution of funds to creditors; but
- (b) do not include anything done by the official receiver in connection with or for the purposes of—
 - (i) the appointment of agents for the purposes of, or in connection with, the realisation of assets;
 - (ii) the making of a distribution to creditors (including preferential or secured creditors or both such classes of creditor);
 - (iii) the realisation of assets on behalf of the holder of a fixed or floating charge or both types of those charges; or
 - (iv) the supervision of a special manager.

2. Fees payable to the Department in respect of proceedings under Parts I to X of the 1989 Order and the performance by the official receiver and the Department of functions under those Parts shall be determined in accordance with the provisions of the Table of Fees set out below—

Table of Fees

Fees payable in respect of deeds of arrangement only		
<i>Designation of fee</i>	<i>Description of fee and circumstances in which it is charged</i>	<i>Amount of fee or applicable %</i>
1	On filing with the Registrar a deed where the total estimated amount of property included therein or the total amount of composition thereunder appears from the affidavit of the debtor to be—	
	(a) £1,000 or less	£8.25
	(b) over £1,000 and not over £2,500	£14.00
	(c) over £2,500 and not over £5,000	£22.00
	(d) over £5,000	£27.50
2	On filing with the Registrar any deed not covered by Fee No. 1	£11.00
3	On a certificate of registration of an original deed endorsed thereon	£1.50
4	On filing with the Registrar a statutory declaration, affidavit or notice pursuant to the 1989 Order	£1.10
5	On searching the register and on inspecting the filed copy, including taking the limited extract under Article 225 of the 1989 Order (for every name inspected)	£1.10
6	On an account transmitted by a trustee under Article 222 of the 1989 Order—	
	(a) where the gross amount of the assets realised and brought to credit, or of the composition distributed (in the case of a composition) during the period of account does not exceed £1,000 on every £100 or part thereof	£2.25
	(b) where the gross amount exceeds £1,000 and in addition for every £100 or part thereof exceeding £1,000	£1.50
7	On an application to inspect the accounts of a trustee under Article 225(2) of the 1989 Order	£1.50
8	On copies of documents supplied—	
	(a) per foolscap or A4 ISO page	£0.35
	(b) all larger pages	£0.70

Fees payable in respect of individual voluntary arrangements only		
<i>Designation of fee</i>	<i>Description of fee and circumstances in which it is charged</i>	<i>Amount of fee or applicable %</i>
IVA1	Individual voluntary arrangement registration fee On the registration of an individual voluntary arrangement by the Department there is payable a fee of—	£35
IVA2	Individual voluntary arrangement – official receiver’s nominee fee For the performance by the official receiver in relation to an individual voluntary arrangement of the functions of nominee there shall be payable on the agreement of the official receiver so to act a fee of—	£300
IVA3	Individual voluntary arrangement – official receiver’s supervisor fee For the performance by the official receiver in relation to an individual voluntary arrangement of the functions of supervisor, there shall be payable a fee calculated as a percentage of any monies realised whilst he acts as supervisor at the rate of—	15%
Fees payable in bankruptcies only		
<i>Designation of fee</i>	<i>Description of fee and circumstances in which it is charged</i>	<i>Amount of fee or applicable %</i>
B1	Bankruptcy – official receiver’s administration fee For the performance by the official receiver of his general duties as official receiver on the making of a bankruptcy order there shall be payable a fee of—	£925
B2	Bankruptcy – Department’s administration fee For the performance by the Department of its general duties under the insolvency legislation in relation to the administration of the estate of each bankrupt, there shall be payable a fee (up to a maximum of £100,000) calculated as a percentage of total chargeable receipts relating to the bankruptcy (but ignoring the first £2000 and that part of the total receipts which exceeds the bankruptcy ceiling) at the rate of—	17%
Fees payable in relation to winding up by the High Court only		
<i>Designation of fee</i>	<i>Description of fee and circumstances in which it is charged</i>	<i>Amount of fee or applicable %</i>
W1	Winding up by the High Court – official receiver’s administration fee For the performance by the official receiver of his general duties as official receiver on the making of a winding-up order there shall be payable a fee of—	£1,495
W2	Winding up by the High Court – Department’s administration fee For the performance by the Department of its general duties under the insolvency legislation in relation to the administration of the affairs of each company which is being wound up by the High Court, there shall be payable a fee (up to a maximum of £100,000) calculated as a percentage of total chargeable receipts relating to the company (but ignoring the first £2000) at the rate of—	17%

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the charging of fees in relation to insolvency proceedings under the Insolvency (Northern Ireland) Order 1989 (“the 1989 Order”). It seeks in all cases to simplify the fee structure applicable in relation to insolvency proceedings under Parts I to X of the 1989 Order by reducing the number of fees payable. Hence it is not possible to make a direct comparison between any specific fee prescribed by this Order and a specific fee charged under the Insolvency (Fees) Order (Northern Ireland) 1991.

Article 3 of, and Schedule 1 to, the Order make provision for the revocation of the Orders listed in the Schedule with some savings. In any case where a bankruptcy order was made under the 1989 Order before the date that this Order comes into operation, only Fee 19 in Part 2 of the Schedule to the Insolvency (Fees) Order (Northern Ireland) 1991, will continue to apply. (Provision is made in the Insolvency Practitioners and Insolvency Account (Fees) Order (Northern Ireland) 2006 (S.R. 2006 No. 53) for the payment of fees in respect of the issue of cheques and other matters relating to the operation of the Insolvency Account in relation to bankruptcies). As regards cases where a winding-up order is made under the 1989 Order before the date this Order comes into operation, only Fee 8 in Part 1 of the Schedule to the Insolvency (Fees) Order (Northern Ireland) 1991 will continue to be payable. (Again the Insolvency Practitioners and Insolvency Account (Fees) Order (Northern Ireland) 2006 makes provision for the payment of fees in relation to the issue of cheques and other matters relating to the operation of the Insolvency Account in relation to liquidations).

Article 4 of, and Schedule 2 to, the Order set out fees payable in relation to winding-up by the High Court, bankruptcies, deeds of arrangement and individual voluntary arrangements. Article 5 prescribes the fees payable to insolvency practitioners under Article 247 of the 1989 Order. Article 6 makes provision in relation to the repayment of fees. Article 7 makes provision regarding VAT payable on fees.

A Regulatory Impact Assessment was prepared for the Insolvency (Northern Ireland) Order 2005. This deals with the restructuring of the system of insolvency fees. Copies of this assessment are available from the Legislation Unit, The Insolvency Service, Fermanagh House, 20A Ormeau Avenue, Belfast BT2 8NJ.