

EXPLANATORY MEMORANDUM TO THE INSOLVENCY (FEES) ORDER (NORTHERN IRELAND) 2006

2006 No. 54

1. This explanatory memorandum has been prepared by the Department of Enterprise, Trade and Investment and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order specifies fees payable to the Department of Enterprise, Trade and Investment for the performance by the Official Receiver or the Department of functions under Parts I to X of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989 No. 2405 (N.I. 19)) (“the 1989 Order”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

4.1 This Order replaces the Insolvency (Fees) Order (Northern Ireland) 1991 (SR 1991 No. 385), the Insolvency (Fees) (Amendment) Order (Northern Ireland) 1992 (S.R. 1992 No. 398) and the Insolvency (Fees) (Amendment) Order (Northern Ireland) 1996 (S.R. 1996 No. 576).

4.2 Under the Insolvency (Northern Ireland) Order 2005 (S.I. 2005 No. 1455 (N.I. 10)) the Official Receiver can act as nominee and supervisor in relation to voluntary arrangements by bankrupts to pay their creditors. The Order under consideration sets the Official Receiver’s fees for this work.

4.3 The Order also puts in place a simplified fee structure in relation to bankruptcies and winding up which is geared towards recovery of full costs for the work involved.

5. Extent

This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This Order is in parity with the Insolvency Proceedings (Fees) Order 2004 (S.I. 2004 No. 593) as amended by the Insolvency Proceedings (Fees) (Amendment) Order 2005 (S.I. 2005 No. 544).

- 7.2 No direct comparison is possible between the fees laid down by the Insolvency (Fees) Order (Northern Ireland) 1991 for bankruptcy and company winding-up and those laid down by the Order under consideration. This is because the former fee structure has been entirely superseded by a new simplified fee structure similar to that brought in for GB by the Insolvency Proceeds (Fees) Order 2004.
- 7.3 Under the Insolvency (Fees) Order (Northern Ireland) 1991 as amended, up to 10 fees were chargeable in a company winding-up and up to 20 fees in a bankruptcy. These included both fixed charge and percentage fees.
- 7.4 Under the new simplified fee structure there will be just two fees in the case of bankruptcy, and two in the case of a company winding-up. There will be an official receiver's administration fee of £925 in a bankruptcy, and £1,495 in a company winding-up. A Departmental administration fee of 17% of chargeable receipts exceeding £2000 will be payable in both bankruptcies and in the winding-up of a company.
- 7.5 The official receiver's administration fees are less than those set in GB by the Insolvency Proceeds (Fees) Order 2004, £1,625 in the case of a bankruptcy and £1,950 in the case of a winding-up. This is because an evaluation exercise which was carried out in Northern Ireland showed that the lesser sums would suffice to ensure recovery of the costs incurred by the official receiver in Northern Ireland in administering cases.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. Likewise there will be no impact on the public sector.

9. Contact

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