
STATUTORY INSTRUMENTS

1994 No. 2507

INSOLVENCY

COMPANIES

INDIVIDUALS, ENGLAND AND WALES

The Insolvency Regulations 1994

Made - - - - *26th September 1994*
Laid before Parliament *28th September 1994*
Coming into force - - *24th October 1994*

The Secretary of State, in exercise of the powers conferred on him by Rule 12.1 of the Insolvency Rules 1986(1) and sections 411 and 412 of, and paragraphs 27 of Schedule 8 and 30 of Schedule 9 to, the Insolvency Act 1986(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Insolvency Regulations 1994 and shall come into force on 24th October 1994.

Revocations

2. Subject to regulation 37 below, the Regulations listed in Schedule 1 to these Regulations are hereby revoked.

Interpretation and application

3.—(1) In these Regulations, except where the context otherwise requires—

(1) S.I.1986/1925 amended by S.I. 1987/1919, S.I. 1989/397, S.I. 1991/495 and S.I. 1993/602.
(2) 1986 c. 45.

“bank” means any authorised institution in England and Wales within the meaning of the Banking Act 1987⁽³⁾ or a European deposit-taker as defined in regulation 82(3) of the Banking Coordination (Second Council Directive) Regulations 1992⁽⁴⁾ that is to say a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits;

“bankrupt” means the bankrupt or his estate;

“company” means the company which is being wound up;

“creditors' committee” means any committee established under section 301;

“liquidation committee” means, in the case of a winding up by the court, any committee established under section 141 and, in the case of a creditors' voluntary winding up, any committee established under section 101;

“liquidator” includes, in the case of a company being wound up by the court, the official receiver when so acting;

“local bank” means any bank in, or in the neighbourhood of, the insolvency district, or the district in respect of which the court has winding-up jurisdiction, in which the proceedings are taken, or in the locality in which any business of the company or, as the case may be, the bankrupt is carried on;

“local bank account” means, in the case of a winding up by the court, a current account opened with a local bank under regulation 6(2) below and, in the case of a bankruptcy, a current account opened with a local bank under regulation 21(1) below;

“payment instrument” means a cheque or payable order;

“the Rules” means the Insolvency Rules 1986; and

“trustee”, subject to regulation 19(2) below, means trustee of a bankrupt's estate including the official receiver when so acting;

and other expressions used in these Regulations and defined by the Rules have the meanings which they bear in the Rules.

(2) A Rule referred to in these Regulations by number means the Rule so numbered in the Rules.

(3) Any application to be made to the Secretary of State or to the Department or anything required to be sent to the Secretary of State or to the Department under these Regulations shall be addressed to the Department of Trade and Industry, The Insolvency Service, PO Box 3690, Birmingham B2 4UY.

(4) Where a regulation makes provision for the use of a form obtainable from the Department, the Department may provide different forms for different cases arising under that regulation.

(5) Subject to regulation 37 below, these Regulations apply—

(a) to winding-up proceedings commenced on or after 29th December 1986; and

(b) to bankruptcy proceedings where the bankruptcy petition is or was presented on or after that day.

(3) 1987 c. 22.

(4) S.I. 1992/3218 amended by S.I. 1993/3225.

PART 2

WINDING UP

Introductory

4. This Part of these Regulations relates to—

- (a) voluntary winding up and
- (b) winding up by the court

of companies which the courts in England and Wales have jurisdiction to wind up.

PAYMENTS INTO AND OUT OF THE INSOLVENCY SERVICES ACCOUNT

Payments into the Insolvency Services Account

5.—(1) In the case of a winding up by the court, subject to regulation 6 below, the liquidator shall pay all money received by him in the course of carrying out his functions as such without any deduction into the Insolvency Services Account kept by the Secretary of State with the Bank of England to the credit of the company once every 14 days or forthwith if £5,000 or more has been received.

(2) In the case of a voluntary winding up, the liquidator shall, within 14 days of the expiration of the period of 6 months from the date of his appointment and of every period of six months thereafter until he vacates office, pay into the Insolvency Services Account to the credit of the company the balance of funds in his hands or under his control relating to the company, including any unclaimed or undistributed assets or dividends, but excluding such part (if any) as he considers necessary to retain for the immediate purposes of the winding up.

(3) Every payment of money into the Insolvency Services Account under this regulation shall be—

- (a) made through the Bank Giro system; or
- (b) sent direct to the Bank of England, PO Box 3, Birmingham B2 5EY by cheque drawn in favour of the “Insolvency Services Account” and crossed “A/c payee only” “Bank of England”,

and the liquidator shall on request be given by the Department a receipt for the money so paid.

(4) Every payment of money under paragraphs (1) and (2) above shall be accompanied by a form obtainable from the Department for that purpose or by a form that is substantially similar.

(5) Where in a voluntary winding up a liquidator pays any unclaimed dividend into the Insolvency Services Account, he shall at the same time give notice to the Secretary of State, on a form obtainable from the Department or on one that is substantially similar, of the name and address of the person to whom the dividend is payable and the amount of the dividend.

Local bank account and handling of funds not belonging to the company

6.—(1) This regulation does not apply in the case of a voluntary winding up.

(2) Where the liquidator intends to exercise his power to carry on the business of the company, he may apply to the Secretary of State for authorisation to open a local bank account, and the Secretary of State may authorise him to make his payments into and out of a specified bank, subject to a limit, instead of into and out of the Insolvency Services Account if satisfied that an administrative advantage will be derived from having such an account.

(3) Money received by the liquidator relating to the purpose for which the account was opened may be paid into the local bank account to the credit of the company to which the account relates.

(4) Where the liquidator opens a local bank account pursuant to an authorisation granted under paragraph (2) above, he shall open and maintain the account in the name of the company.

(5) Where money which is not an asset of the company is provided to the liquidator for a specific purpose, it shall be clearly identifiable in a separate account.

(6) The liquidator shall keep proper records, including documentary evidence of all money paid into and out of every local bank account opened and maintained under this regulation.

(7) The liquidator shall pay without deduction any surplus over any limit imposed by an authorisation granted under paragraph (2) above into the Insolvency Services Account in accordance with regulation 5 above as that regulation applies in the case of a winding up by the court.

(8) As soon as the liquidator ceases to carry on the business of the company or vacates office or an authorisation given in pursuance of an application under paragraph (2) above is withdrawn, he shall close the account and pay any balance into the Insolvency Services Account in accordance with regulation 5 above as that regulation applies in the case of a winding up by the court.

Payment of disbursements etc. out of the Insolvency Services Account

7.—(1) In the case of a winding up by the court, on application to the Department, the liquidator shall be repaid all necessary disbursements made by him, and expenses properly incurred by him, in the course of his administration to the date of his vacation of office out of any money standing to the credit of the company in the Insolvency Services Account.

(2) In the case of a winding up by the court, the liquidator shall on application to the Department obtain payment instruments to the order of the payee for sums which become payable on account of the company for delivery by the liquidator to the persons to whom the payments are to be made.

(3) In the case of a voluntary winding up, where the liquidator requires to make payments out of any money standing to the credit of the company in the Insolvency Services Account in respect of the expenses of the winding up, he shall apply to the Secretary of State who may either authorise payment to the liquidator of the sum required by him, or may direct payment instruments to be issued to the liquidator for delivery by him to the persons to whom the payments are to be made.

(4) Any application under this regulation shall be made by the liquidator on a form obtainable from the Department for the purpose or on a form that is substantially similar.

(5) In the case of a winding up by the court, on the liquidator vacating office, he shall be repaid by any succeeding liquidator out of any funds available for the purpose any necessary disbursements made by him and any expenses properly incurred by him but not repaid before he vacates office.

DIVIDENDS TO CREDITORS AND RETURNS OF CAPITAL TO CONTRIBUTORIES OF A COMPANY

Payment

8.—(1) In the case of a winding up by the court, the liquidator shall pay every dividend by payment instruments which shall be prepared by the Department on the application of the liquidator and transmitted to him for distribution amongst the creditors.

(2) In the case of a winding up by the court, the liquidator shall pay every return of capital to contributories by payment instruments which shall be prepared by the Department on application.

(3) In the case of a voluntary winding up, where the liquidator requires to make payments out of any money standing to the credit of the company in the Insolvency Services Account by way of distribution, he shall apply in writing to the Secretary of State who may either authorise payment

to the liquidator of the sum required by him, or may direct payment instruments to be issued to the liquidator for delivery by him to the persons to whom the payments are to be made.

(4) Any application under this regulation for a payment instrument shall be made by the liquidator on a form obtainable from the Department for the purpose or on a form which is substantially similar.

(5) In the case of a winding up by the court, the liquidator shall enter the total amount of every dividend and of every return to contributories that he desires to pay under this regulation in the records to be kept under regulation 10 below in one sum.

(6) On the liquidator vacating office, he shall send to the Department any valid unclaimed or undelivered payment instruments for dividends or returns to contributories after endorsing them with the word "cancelled".

INVESTMENT OR OTHERWISE HANDLING OF FUNDS IN WINDING UP OF COMPANIES AND PAYMENT OF INTEREST

9.—(1) When the cash balance standing to the credit of the company in the account in respect of that company kept by the Secretary of State is in excess of the amount which, in the opinion of the liquidator, is required for the immediate purposes of the winding up and should be invested, he may request the Secretary of State to invest the amount not so required in Government securities, to be placed to the credit of that account for the company's benefit.

(2) When any of the money so invested is, in the opinion of the liquidator, required for the immediate purposes of the winding up, he may request the Secretary of State to raise such sum as may be required by the sale of such of those securities as may be necessary.

(3) In cases where investments have been made at the request of the liquidator in pursuance of paragraph (1) above and additional sums to the amounts so invested, including money received under paragraph (7) below, are paid into the Insolvency Services Account to the credit of the company, a request shall be made to the Secretary of State by the liquidator if it is desired that these additional sums should be invested.

(4) Any request relating to the investment in, or sale of, as the case may be, Treasury Bills made under paragraphs (1), (2) or (3) above shall be made on a form obtainable from the Department or on one that is substantially similar and any request relating to the purchase or sale, as the case may be, of any other type of Government security made under the provisions of those paragraphs shall be made in writing.

(5) Any request made under paragraphs (1), (2) or (3) above shall be sufficient authority to the Secretary of State for the investment or sale as the case may be.

(6) Whenever the amount standing to the credit of a company in the Insolvency Services Account on or after 24th October 1994 exceeds £2,000, the company shall be entitled to interest on the excess at the rate of 3½ per cent. per annum provided that:

- (a) where, in the opinion of the liquidator, it is necessary or expedient in order to facilitate the conclusion of the winding up that interest should cease to accrue, he may give notice in writing to the Secretary of State to that effect and interest shall cease to accrue from the date of receipt of that notice by the Secretary of State; and
- (b) at any time after receipt by the Secretary of State of a notice under sub-paragraph (a) above, provided that the balance standing to the credit of the company exceeds £2,000, the liquidator may give notice in writing to the Secretary of State requesting that interest should accrue on the excess and interest shall start to accrue on the excess at the rate of 3½ per cent. per annum from the date of receipt of the notice by the Secretary of State.

(7) All money received in respect of investments and interest earned under this regulation shall be paid into the Insolvency Services Account to the credit of the company.

(8) In addition to the application of paragraphs (1) to (7) above, in a voluntary winding up:

- (a) any money invested or deposited at interest by the liquidator shall be deemed to be money under his control, and when such money forms part of the balance of funds in his hands or under his control relating to the company required to be paid into the Insolvency Services Account under regulation 5 above, the liquidator shall realise the investment or withdraw the deposit and shall pay the proceeds into that Account: Provided that where the money is invested in Government securities, such securities may, with the permission of the Secretary of State, be transferred to the control of the Secretary of State instead of being forthwith realised and the proceeds paid into the Insolvency Services Account; and
- (b) where any of the money represented by securities transferred to the control of the Secretary of State pursuant to sub-paragraph (a) above is, in the opinion of the liquidator, required for the immediate purposes of the winding up he may request the Secretary of State to raise such sums as may be required by the sale of such of those securities as may be necessary and such request shall be sufficient authority to the Secretary of State for the sale and the Secretary of State shall pay the proceeds of the realisation into the Insolvency Services Account in accordance with paragraph (7) above and deal with them in the same way as other money paid into that Account may be dealt with.

RECORDS TO BE MAINTAINED BY LIQUIDATORS AND THE PROVISION OF INFORMATION

Financial records

10.—(1) This regulation does not apply in the case of a members' voluntary winding up.

(2) The liquidator shall prepare and keep—

- (a) separate financial records in respect of each company; and
- (b) such other financial records as are required to explain the receipts and payments entered in the records described in sub-paragraph (a) above or regulation 12(2) below, including an explanation of the source of any receipts and the destination of any payments;

and shall, subject to regulation 12(2) below as to trading accounts, from day to day enter in those records all the receipts and payments (including, in the case of a voluntary winding up, those relating to the Insolvency Services Account) made by him.

(3) In the case of a winding up by the court, the liquidator shall obtain and keep bank statements relating to any local bank account in the name of the company.

(4) The liquidator shall submit financial records to the liquidation committee when required for inspection.

(5) In the case of a winding up by the court, if the liquidation committee is not satisfied with the contents of the financial records submitted under paragraph (4) above it may so inform the Secretary of State, giving the reasons for its dissatisfaction, and the Secretary of State may take such action as he thinks fit.

Provision of information by liquidator

11.—(1) In the case of a winding up by the court, the liquidator shall, within 14 days of the receipt of a request for a statement of his receipts and payments as liquidator from any creditor, contributory or director of the company, supply free of charge to the person making the request, a statement of his receipts and payments as liquidator during the period of one year ending on the most recent anniversary of his becoming liquidator which preceded the request.

(2) In the case of a voluntary winding up, the liquidator shall, on request from any creditor, contributory or director of the company for a copy of a statement for any period, including future periods, sent to the registrar of companies under section 192, send such copy free of charge to the

person making the request and the copy of the statement shall be sent within 14 days of the liquidator sending the statement to the registrar or the receipt of the request whichever is the later.

Liquidator carrying on business

- 12.**—(1) This regulation does not apply in the case of a members' voluntary winding up.
- (2) Where the liquidator carries on any business of the company, he shall—
- (a) keep a separate and distinct account of the trading, including, where appropriate, in the case of a winding up by the court, particulars of all local bank account transactions; and
 - (b) incorporate in the financial records required to be kept under regulation 10 above the total weekly amounts of the receipts and payments made by him in relation to the account kept under sub-paragraph (a) above.

Retention and delivery of records

13.—(1) All records kept by the liquidator under regulations 10 and 12(2) and any such records received by him from a predecessor in that office shall be retained by him for a period of 6 years following—

- (a) his vacation of office, or
- (b) in the case of the official receiver, his release as liquidator under section 174,

unless he delivers them to another liquidator who succeeds him in office.

(2) Where the liquidator is succeeded in office by another liquidator, the records referred to in paragraph (1) above shall be delivered to that successor forthwith, unless, in the case of a winding up by the court, the winding up is for practical purposes complete and the successor is the official receiver, in which case the records are only to be delivered to the official receiver if the latter so requests.

Provision of accounts by liquidator and audit of accounts

14.—(1) The liquidator shall, if required by the Secretary of State at any time, send to the Secretary of State an account in relation to the company of the liquidator's receipts and payments covering such period as the Secretary of State may direct and such account shall, if so required by the Secretary of State, be certified by the liquidator.

(2) Where the liquidator in a winding up by the court vacates office prior to the holding of the final general meeting of creditors under section 146, he shall within 14 days of vacating office send to the Secretary of State an account of his receipts and payments as liquidator for any period not covered by an account previously so sent by him or if no such account has been sent, an account of his receipts and payments in respect of the whole period of his office.

- (3) In the case of a winding up by the court, where:
- (a) a final general meeting of creditors has been held pursuant to section 146, or
 - (b) a final general meeting is deemed to have been held by virtue of Rule 4.125(5),

the liquidator shall send to the Secretary of State, in case (a), within 14 days of the holding of the final general meeting of creditors and, in case (b), within 14 days of his report to the court pursuant to Rule 4.125(5), an account of his receipts and payments as liquidator which are not covered by any previous account so sent by him, or if no such account has been sent an account of his receipts and payments in respect of the whole period of his office.

(4) In the case of a winding up by the court, where a statement of affairs has been submitted under the Act, any account sent under this regulation shall be accompanied by a summary of that

statement of affairs and shall show the amount of any assets realised and explain the reasons for any non-realisation of any assets not realised.

(5) In the case of a winding up by the court, where a statement of affairs has not been submitted under the Act, any account sent under this regulation shall be accompanied by a summary of all known assets and their estimated values and shall show the amounts actually realised and explain the reasons for any non-realisation of any assets not realised.

(6) Any account sent to the Secretary of State shall, if he so requires, be audited, but whether or not the Secretary of State requires the account to be audited, the liquidator shall send to the Secretary of State on demand any documents (including vouchers and bank statements) and any information relating to the account.

Production and inspection of records

15.—(1) The liquidator shall produce on demand to the Secretary of State, and allow him to inspect, any accounts, books and other records kept by him (including any passed to him by a predecessor in office), and this duty to produce and allow inspection shall extend—

- (a) to producing and allowing inspection at the premises of the liquidator; and
- (b) to producing and allowing inspection of any financial records of the kind described in regulation 10(2)(b) above prepared by the liquidator (or any predecessor in office of his) before 24th October 1994 and kept by the liquidator;

and any such demand may—

- (i) require the liquidator to produce any such accounts, books or other records to the Secretary of State, and allow him to inspect them—
 - (A) at the same time as any account is sent to the Secretary of State under regulation 14 above; or
 - (B) at any time after such account is sent to the Secretary of State; whether or not the Secretary of State requires the account to be audited; or
- (ii) where it is made for the purpose of ascertaining whether the provisions of these Regulations relating to the handling of money received by the liquidator in the course of carrying out his functions have been or are likely to be complied with, be made at any time, whether or not an account has been sent or should have been sent to the Secretary of State under regulation 14 above and whether or not the Secretary of State has required any account to be audited.

(2) The liquidator shall allow the Secretary of State on demand to remove and take copies of any accounts, books and other records kept by the liquidator (including any passed to him by a predecessor in office), whether or not they are kept at the premises of the liquidator.

Disposal of company's books, papers and other records

16.—(1) The liquidator in a winding up by the court, on the authorisation of the official receiver, during his tenure of office or on vacating office, or the official receiver while acting as liquidator, may at any time sell, destroy or otherwise dispose of the books, papers and other records of the company.

(2) In the case of a voluntary winding up, the person who was the last liquidator of a company which has been dissolved may, at any time after the expiration of a period of one year from the date of dissolution, destroy or otherwise dispose of the books, papers and other records of the company.

Voluntary liquidator to provide information to Secretary of State

17.—(1) In the case of a voluntary winding up, a liquidator or former liquidator, whether the winding up has been concluded under Rule 4.223 or not, shall, within 14 days of a request by the

Secretary of State, give the Secretary of State particulars of any money in his hands or under his control representing unclaimed or undistributed assets of the company or dividends or other sums due to any person as a member or former member of the company and such other particulars as the Secretary of State may require for the purpose of ascertaining or getting in any money payable into the Insolvency Services Account.

(2) The particulars referred to in paragraph (1) above shall, if the Secretary of State so requires, be certified by the liquidator, or former liquidator, as the case may be.

Payment of unclaimed or undistributed assets, dividends or other money on dissolution of company

18. In the case of a company which has been dissolved, notwithstanding anything in these Regulations, any money in the hands of any or any former liquidator at the date of dissolution of the company or his earlier vacation of office, representing unclaimed or undistributed assets of the company or dividends or held by the company in trust in respect of dividends or other sums due to any person as a member or former member of the company, shall forthwith be paid by him into the Insolvency Services Account.

PART 3

BANKRUPTCY

Introductory

19.—(1) This Part of these Regulations relates to bankruptcy and extends to England and Wales only.

(2) In addition to the application of the provisions of this Part to the official receiver when acting as trustee, the provisions of this Part (other than regulations 30 and 31) shall also apply to him when acting as receiver or manager under section 287 and the term “trustee” shall be construed accordingly.

PAYMENTS INTO AND OUT OF THE INSOLVENCY SERVICES ACCOUNT

Payments into the Insolvency Services Account

20.—(1) Subject to regulation 21 below, the trustee shall pay all money received by him in the course of carrying out his functions as such without any deduction into the Insolvency Services Account kept by the Secretary of State with the Bank of England to the credit of the bankrupt once every 14 days or forthwith if £5,000 or more has been received.

(2) Every payment of money into the Insolvency Services Account under this regulation shall be—

- (a) made through the Bank Giro system; or
- (b) sent direct to the Bank of England, PO Box 3, Birmingham B2 5EY by cheque drawn in favour of the “Insolvency Services Account” and crossed “A/c payee only” “Bank of England”,

and the trustee shall on request be given by the Department a receipt for the money so paid.

(3) Every payment of money under paragraph (1) above shall be accompanied by a form obtainable from the Department for that purpose or by a form that is substantially similar.

Local bank account and handling of funds not forming part of the bankrupt's estate

21.—(1) Where the trustee intends to exercise his power to carry on the business of the bankrupt, he may apply to the Secretary of State for authorisation to open a local bank account, and the Secretary of State may authorise him to make his payments into and out of a specified bank, subject to a limit, instead of into and out of the Insolvency Services Account if satisfied that an administrative advantage will be derived from having such an account.

(2) Money received by the trustee relating to the purpose for which the account was opened may be paid into the local bank account to the credit of the bankrupt to whom the account relates.

(3) Where the trustee opens a local bank account pursuant to an authorisation granted under paragraph (1) above he shall open and maintain the account in the name of the bankrupt.

(4) Where money which does not form part of the bankrupt's estate is provided to the trustee for a specific purpose it shall be clearly identifiable in a separate account.

(5) The trustee shall keep proper records, including documentary evidence of all money paid into and out of every local bank account opened and maintained under this regulation.

(6) The trustee shall pay without deduction any surplus over any limit imposed by an authorisation granted under paragraph (1) above into the Insolvency Services Account in accordance with regulation 20(1) above.

(7) As soon as the trustee ceases to carry on the business of the bankrupt or vacates office or an authorisation given in pursuance of an application under paragraph (1) above is withdrawn, he shall close the account and pay any balance into the Insolvency Services Account in accordance with regulation 20(1) above.

Payment of disbursements etc. out of the Insolvency Services Account

22.—(1) On application to the Department, the trustee shall be repaid all necessary disbursements made by him, and expenses properly incurred by him, in the course of his administration to the date of his vacation of office out of any money standing to the credit of the bankrupt in the Insolvency Services Account.

(2) The trustee shall on application to the Department obtain payment instruments to the order of the payee for sums which become payable on account of the bankrupt for delivery by the trustee to the persons to whom the payments are to be made.

(3) Any application under this regulation shall be made on a form obtainable from the Department or on one that is substantially similar.

(4) On the trustee vacating office, he shall be repaid by any succeeding trustee out of any funds available for the purpose any necessary disbursements made by him and any expenses properly incurred by him but not repaid before he vacates office.

DIVIDENDS TO CREDITORS

Payment

23.—(1) The trustee shall pay every dividend by payment instruments which shall be prepared by the Department on the application of the trustee and transmitted to him for distribution amongst the creditors.

(2) Any application under this regulation for a payment instrument shall be made by the trustee on a form obtainable from the Department for the purpose or on a form which is substantially similar.

(3) The trustee shall enter the total amount of every dividend that he desires to pay under this regulation in the records to be kept under regulation 24 below in one sum.

(4) On the trustee vacating office, he shall send to the Department any valid unclaimed or undelivered payment instruments for dividends after endorsing them with the word “cancelled”.

RECORDS TO BE MAINTAINED BY TRUSTEES AND THE PROVISION OF INFORMATION

Financial records

24.—(1) The trustee shall prepare and keep—

- (a) separate financial records in respect of each bankrupt; and
- (b) such other financial records as are required to explain the receipts and payments entered in the records described in sub-paragraph (a) above or regulation 26 below, including an explanation of the source of any receipts and the destination of any payments;

and shall, subject to regulation 26 below as to trading accounts, from day to day enter in those records all the receipts and payments made by him.

(2) The trustee shall obtain and keep bank statements relating to any local bank account in the name of the bankrupt.

(3) The trustee shall submit financial records to the creditors' committee when required for inspection.

(4) If the creditors' committee is not satisfied with the contents of the financial records submitted under paragraph (3) above it may so inform the Secretary of State, giving the reasons for its dissatisfaction and the Secretary of State may take such action as he thinks fit.

Provision of information by trustee

25. The trustee shall, within 14 days of the receipt of a request from any creditor or the bankrupt for a statement of his receipts and payments as trustee, supply free of charge to the person making the request, a statement of his receipts and payments as trustee during the period of one year ending on the most recent anniversary of his becoming trustee which preceded the request.

Trustee carrying on business

26. Subject to paragraph (2) below, where the trustee carries on any business of the bankrupt, he shall—

- (a) keep a separate and distinct account of the trading, including, where appropriate, particulars of all local bank account transactions; and
- (b) incorporate in the financial records required to be kept under regulation 24 above the total weekly amounts of the receipts and payments made by him in relation to the account kept under paragraph (a) above.

Retention and delivery of records

27.—(1) All records kept by the trustee under regulations 24 and 26 and any such records received by him from a predecessor in that office shall be retained by him for a period of 6 years following—

- (a) his vacation of office, or
- (b) in the case of the official receiver, his release as trustee under section 299,

unless he delivers them to another trustee who succeeds him in office.

(2) Where the trustee is succeeded in office by another trustee, the records referred to in paragraph (1) above shall be delivered to that successor forthwith, unless the bankruptcy is for

practical purposes complete and the successor is the official receiver, in which case the records are only to be delivered to the official receiver if the latter so requests.

Provision of accounts by trustee and audit of accounts

28.—(1) The trustee shall, if required by the Secretary of State at any time, send to the Secretary of State an account of his receipts and payments as trustee of the bankrupt covering such period as the Secretary of State may direct and such account shall, if so required by the Secretary of State, be certified by the trustee.

(2) Where the trustee vacates office prior to the holding of the final general meeting of creditors under section 331, he shall within 14 days of vacating office send to the Secretary of State an account of his receipts and payments as trustee for any period not covered by an account previously so sent by him, or if no such account has been sent, an account of his receipts and payments in respect of the whole period of his office.

(3) Where:

- (a) a final general meeting of creditors has been held pursuant to section 331, or
- (b) a final general meeting is deemed to have been held by virtue of Rule 6.137(5),

the trustee shall send to the Secretary of State, in case (a), within 14 days of the holding of the final general meeting of creditors and, in case (b), within 14 days of his report to the court pursuant to Rule 6.137(5), an account of his receipts and payments as trustee which are not covered by any previous account so sent by him, or if no such account has been sent, an account of his receipts and payments in respect of the whole period of his office.

(4) Where a statement of affairs has been submitted under the Act, any account sent under this regulation shall be accompanied by a summary of that statement of affairs and shall show the amount of any assets realised and explain the reasons for any non-realisation of any assets not realised.

(5) Where a statement of affairs has not been submitted under the Act, any account sent under this regulation shall be accompanied by a summary of all known assets and their estimated values and shall show the amounts actually realised and explain the reasons for any non-realisation of any assets not realised.

(6) Any account sent to the Secretary of State shall, if he so requires, be audited, but whether or not the Secretary of State requires the account to be audited, the trustee shall send to the Secretary of State on demand any documents (including vouchers and bank statements) and any information relating to the account.

Production and inspection of records

29.—(1) The trustee shall produce on demand to the Secretary of State, and allow him to inspect, any accounts, books and other records kept by him (including any passed to him by a predecessor in office), and this duty to produce and allow inspection shall extend—

- (a) to producing and allowing inspection at the premises of the trustee; and
- (b) to producing and allowing inspection of any financial records of the kind described in regulation 24(1)(b) above prepared by the trustee before 24th October 1994 and kept by him;

and any such demand may—

- (i) require the trustee to produce any such accounts, books or other records to the Secretary of State, and allow him to inspect them—
 - (A) at the same time as any account is sent to the Secretary of State under regulation 28 above; or

- (B) at any time after such account is sent to the Secretary of State;
whether or not the Secretary of State requires the account to be audited; or
- (ii) where it is made for the purpose of ascertaining whether the provisions of these Regulations relating to the handling of money received by the trustee in the course of carrying out his functions have been or are likely to be complied with, be made at any time, whether or not an account has been sent or should have been sent to the Secretary of State under regulation 28 above and whether or not the Secretary of State has required any account to be audited.
- (2) The trustee shall allow the Secretary of State on demand to remove and take copies of any accounts, books and other records kept by the trustee (including any passed to him by a predecessor in office), whether or not they are kept at the premises of the trustee.

Disposal of bankrupt's books, papers and other records

30. The trustee, on the authorisation of the official receiver, during his tenure of office or on vacating office, or the official receiver while acting as trustee, may at any time sell, destroy or otherwise dispose of the books, papers and other records of the bankrupt.

Payment of unclaimed or undistributed assets, dividends or other money

31. Notwithstanding anything in these Regulations, any money—

(a) in the hands of the trustee at the date of his vacation of office, or

(b) which comes into the hands of any former trustee at any time after his vacation of office, representing, in either case, unclaimed or undistributed assets of the bankrupt or dividends, shall forthwith be paid by him into the Insolvency Services Account.

PART 4

CLAIMING MONEY PAID INTO THE INSOLVENCY SERVICES ACCOUNT

32.—(1) Any person claiming to be entitled to any money paid into the Insolvency Services Account may apply to the Secretary of State for payment and shall provide such evidence of his claim as the Secretary of State may require.

(2) Any person dissatisfied with the decision of the Secretary of State in respect of his claim made under this regulation may appeal to the court.

PART 5

REMUNERATION OF OFFICIAL RECEIVER

Official receiver's remuneration while acting as liquidator or trustee calculated as a percentage of the value of assets realised or distributed

33. Subject to regulations 34, 35 and 36 below, when he is the liquidator of a company or trustee, the official receiver's remuneration for his services as such shall be calculated on the scales in Table 1 of Schedule 2 to these Regulations, as a percentage of the money received by him from the realisation of the assets of the company or the bankrupt, as the case may be, (including any Value Added Tax received on the realisation but after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the company or

the bankrupt, as the case may be) and a percentage of the value of assets distributed to the creditors of the company or the bankrupt, as the case may be, (including payments made in respect of preferential debts) and, in the case of a company, to contributories.

Limits on official receiver's remuneration as trustee

34.—(1) That part of the official receiver's remuneration for his services as trustee which is calculated on the realisation scale set out in Table 1 of Schedule 2 to these Regulations shall not exceed such sum as is arrived at by:

- (a) applying that scale to such part of the proceeds of the realisation of the bankrupt's assets as is required to pay:
 - (i) the bankruptcy debts to the extent required to be paid by the Rules (ignoring those debts paid otherwise than out of the proceeds of the realisation of the bankrupt's assets or which have been secured to the satisfaction of the court);
 - (ii) the expenses of the bankruptcy other than:
 - (A) fees or the remuneration of the official receiver;
 - (B) any sums spent out of money received in carrying on the business of the bankrupt;
 - (iii) fees payable under the Insolvency Fees Order 1986⁽⁵⁾ other than Fee No. 5 and Fee No. 13 in Part II of the Schedule to that Order; and
 - (iv) the remuneration of the official receiver other than remuneration calculated pursuant to regulation 33 by reference to the realisation scale in Table 1 of Schedule 2 to these Regulations; and
- (b) deducting from the sum arrived at under sub-paragraph (a) above any sum paid in respect of Fee No. 5 in Part II of the Schedule to the Insolvency Fees Order 1986.

(2) For the purposes of this regulation the expression "bankruptcy debts" shall include any interest payable by virtue of section 328(4).

Official receiver's general remuneration while acting as interim receiver, provisional liquidator, liquidator or trustee

35.—(1) When he is an interim receiver appointed under section 286 or the provisional liquidator of a company being wound up or where as official receiver he performs any duty as liquidator or trustee for which remuneration is not provided in these Regulations or a fee is not provided under any order made under section 414 or 415, the official receiver's remuneration for the services provided by himself and his officers in that capacity shall be calculated on the total hourly rate as specified in Table 2 or, as the case may be, Table 3 in Schedule 2 to these Regulations.

(2) Table 2 shall be used when calculating the remuneration of the official receiver of the London insolvency district and Table 3 shall be used when calculating the remuneration of the official receiver of any other district.

Official receiver's remuneration while acting as liquidator or provisional liquidator in respect of the realisation of property charged

36. When he is a liquidator or provisional liquidator, the official receiver's remuneration in respect of the realisation of property of the company—

(5) S.I. 1986/2030 as amended by S.I. 1988/95, S.I. 1990/560, S.I. 1991/496 and S.I. 1992/34.

- (a) for secured creditors (other than a creditor who holds a floating charge on the company's undertaking or property) shall be calculated on the realisation scale set out in Table 1 in Schedule 2 to these Regulations in the manner set out in regulation 33; and
- (b) for creditors who hold a floating charge on the company's undertaking or property shall be calculated on both the scales set out in Table 1 in Schedule 2 and in the manner set out in regulation 33.

PART 6

TRANSITIONAL AND SAVING PROVISIONS

37. The Regulations shall have effect subject to the transitional and saving provisions set out in Schedule 3 to these Regulations.

26th September 1994

Neil Hamilton
Parliamentary Under-Secretary for State,
Department of Trade and Industry

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SCHEDULE 1

Regulation 2

- The Insolvency Regulations 1986(6)
- The Insolvency (Amendment) Regulations 1987(7)
- The Insolvency (Amendment) Regulations 1988(8)
- The Insolvency (Amendment) Regulations 1991(9)

SCHEDULE 2

Regulations 33 to 36

TABLE 1

The realisation scale	
(i) on the first £5,000 or fraction thereof	20%
(ii) on the next £5,000 or fraction thereof	15%
(iii) on the next £90,000 or fraction thereof	10%
(iv) on all further sums realised	5%
The distribution scale	
(i) on the first £5,000 or fraction thereof	10%
(ii) on the next £5,000 or fraction thereof	7½%
(iii) on the next £90,000 or fraction thereof	5%
(iv) on all further sums distributed	2½%

TABLE 2

Grade or Status of Official	Total hourly rate
	£
Official Receiver	49
Deputy/Assistant Official Receiver	41
Senior Examiner	34
Examiner	31

TABLE 3

Grade or Status of Official	Total hourly rate
	£
Official Receiver	34

(6) S.I. 1986/1994.
 (7) S.I. 1987/1959.
 (8) S.I. 1988/1739.
 (9) S.I. 1991/380.

Grade or Status of Official	Total hourly rate
Deputy/Assistant Official Receiver	28
Senior Examiner	28
Examiner	26

SCHEDULE 3

Regulation 37

Interpretation

1. In this Schedule the expression “the former Regulations” means the Insolvency Regulations 1986 as amended by the Insolvency (Amendment) Regulations 1987, the Insolvency (Amendment) Regulations 1988 and the Insolvency (Amendment) Regulations 1991.

Requests pursuant to regulation 13(1) of the former Regulations

2. Any request made pursuant to regulation 13(1) of the former Regulations which has not been complied with prior to 24th October 1994 shall be treated, in the case of a company that is being wound up by the court, as a request made pursuant to regulation 11(1) of these Regulations and, in the case of a bankruptcy, as a request made pursuant to regulation 25 of these Regulations and in each case the request shall be treated as if it had been made on 24th October 1994.

Things done under the provisions of the former Regulations

3. So far as anything done under, or for the purposes of, any provision of the former Regulations could have been done under, or for the purposes of, the corresponding provision of these Regulations, it is not invalidated by the revocation of that provision but has effect as if done under, or for the purposes of, the corresponding provision.

Time periods

4. Where any period of time specified in a provision of the former Regulations is current immediately before 24th October 1994, these Regulations have effect as if the corresponding provision of these Regulations had been in force when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current is deemed for the purposes of these Regulations—

- (a) to run from the date or event from which it was running immediately before 24th October 1994, and
- (b) to expire whenever it would have expired if these Regulations had not been made;

and any rights, obligations, requirements, powers or duties dependent on the beginning, duration or end of such period as above-mentioned shall be under these Regulations as they were or would have been under the former Regulations.

References to other provisions

5. Where in any provision of these Regulations there is reference to another provision of these Regulations, and the first-mentioned provision operates, or is capable of operating, in relation to things done or omitted, or events occurring or not occurring, in the past (including in particular past acts of compliance with the former Regulations), the reference to that other provision is to be read as including a reference to the corresponding provision of the former Regulations.

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Provisions of Schedule to be without prejudice to the operation of sections 16 and 17 of the Interpretation Act 1978

6. The provisions of this Schedule are to be without prejudice to the operation of sections 16 and 17 of the Interpretation Act 1978(10) (saving from, and effect of, repeals) as they are applied by section 23 of that Act.

Meaning of “corresponding provision”

7. —

(1) A provision in the former Regulations, except regulation 13(1) of those Regulations, is to be regarded as the corresponding provision of a provision in these Regulations notwithstanding any modifications made to the provision as it appears in these Regulations.

(2) Without prejudice to the generality of the term “corresponding provision” the following table shall, subject to sub-paragraph (3) below, have effect in the interpretation of that expression with a provision of these Regulations listed in the left hand column being regarded as the corresponding provision of a provision of the former Regulations listed opposite it in the right hand column and that latter provision being regarded as the corresponding provision of the first-mentioned provision:

TABLE

Provision in these Regulations	Provision in the former Regulations
5(1), 5(3), 5(4)	4
5(2), 5(3), 5(4)	24
6	6
7(1), 7(2), 7(4), 7(5)	5
7(3), 7(4)	25
8(1), 8(2), 8(4), 8(5), 8(6)	15
8(3), 8(4)	25
9	18,34
10	9, 27
11(2)	31
12	10, 28
13	10A, 28A
15	12A, 30A
16(1)	14
16(2)	32
17	35
18	16, 33
20	4
21	6

(10) 1978 c. 30.

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Provision in these Regulations	Provision in the former Regulations
22	5
23	15
24	9
26	10
27	10A
29	12A
30	14
31	16A
32	17, 33
33, Table 1 in Schedule 2	19
35, Tables 2 and 3 in Schedule 2	20
36, Table 1 in Schedule 2	22

(3) Where a provision of the former Regulations is expressed in the Table in sub-paragraph (2) above to be the corresponding provision of a provision in these Regulations and the provision in the former Regulations was capable of applying to other proceedings in addition to those to which the provision in these Regulations is capable of applying, the provision in the former Regulations shall be construed as the corresponding provision of the provision in these Regulations only to the extent that they are both capable of applying to the same type of proceedings.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations replace the Insolvency Regulations 1986 (as amended) and provide for a less onerous regime in respect of administrative matters that were covered by the 1986 Regulations. In particular the Regulations provide for:

- (a) the crediting of interest on balances in excess of £2,000 standing to the credit of companies in the Insolvency Services Account without the need for the liquidator to give notice (regulation 9(6));
- (b) the abolition of the automatic requirement for liquidators in compulsory liquidations and trustees to provide annual accounts of their receipts and payments (but the Secretary of State has power to require accounts to be sent to him (regulations 14(1) and 28(1)));
- (c) the submission of accounts where a liquidator or a trustee vacates office prior to the holding of the final creditors' meeting and the submission of accounts after the holding of the final creditors' meeting (regulations 14 and 28);
- (d) an increase in the hourly rate for remuneration of the official receiver whilst acting as interim receiver, provisional liquidator or as liquidator or trustee where that remuneration

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- is not calculated as a percentage of the assets realised or distributed (regulation 35 and Schedule 2, Tables 2 and 3). The increases in hourly rates are broadly in line with inflation;
- (e) the abolition, in certain cases, of remuneration for the provision of services by certain grades of staff (regulation 35 and Schedule 2, Tables 2 and 3); and
 - (f) an upper limit on remuneration calculated by reference to realisations for functions carried out by the official receiver in cases where the bankruptcy debts and expenses are paid in full (or, in the case of the bankruptcy debts, are secured to the satisfaction of the court) (regulation 34).

The structure of the Regulations is as follows:

Part 1 deals with the interpretation and application of the Regulations and the revocation of the Insolvency Regulations 1986, the Insolvency (Amendment) Regulations 1987, the Insolvency (Amendment) Regulations 1988 and the Insolvency (Amendment) Regulations 1991;

Parts 2 and 3 apply to companies that are being wound up by the court or voluntarily and to bankruptcy. The provisions in those Parts deal with:

- (a) the manner in which money received by a liquidator, a trustee or the official receiver whilst acting as receiver or manager in the course of carrying out their respective functions are to be handled;
- (b) payments by a liquidator, a trustee or the official receiver whilst acting as receiver or manager including provision with respect to unclaimed funds and dividends;
- (c) the investment of, and payment of interest on, funds received by a liquidator in the course of carrying out his functions;
- (d) the preparation and maintenance of records and their production for inspection; and
- (e) the provision and audit of accounts and the supply by a liquidator, a trustee or the official receiver whilst acting as receiver or manager of accounts to creditors and others.

Part 4 deals with the claiming of money in the Insolvency Services Account;

Part 5 relates to the remuneration of the official receiver; and

Part 6 contains transitional and saving provisions.

A Compliance Cost Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from The Insolvency Service of the Department of Trade and Industry, PO Box 203, Room 5.1, 21 Bloomsbury Street, London WC1B 3QW.