

2004 No 472

INSOLVENCY

COMPANIES, ENGLAND AND WALES

INDIVIDUALS, ENGLAND AND WALES

The Insolvency (Amendment) Regulations 2004

<i>Made</i> - - - -	<i>25th February 2004</i>
<i>Laid before Parliament</i>	<i>26th February 2004</i>
<i>Coming into force</i> - -	<i>1st April 2004</i>

The Secretary of State, in exercise of the powers conferred upon her by Rule 12.1 of the Insolvency Rules 1986(a) and sections 411 and 412 of, and paragraphs 27 of Schedule 8 and 30 of Schedule 9 to, the Insolvency Act 1986(b) hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Insolvency (Amendment) Regulations 2004 and shall come into force on 1st April 2004.

(2) In these Regulations “the principal Regulations” means the Insolvency Regulations 1994(c) and a reference in these Regulations to a numbered regulation is to the regulation so numbered in the principal Regulations.

Amendments to the principal Regulations

2. The principal Regulations are amended in accordance with the provisions of the Schedule to these Regulations.

Gerry Sutcliffe,
Parliamentary Under Secretary of State for
Employment Relations, Competition and Consumers,
Department of Trade and Industry

25th February 2004

(a) S.I. 1986/1925. The Insolvency Rules 1986 have been amended on a number of occasions but not in a way that is material for the purposes of these Regulations.
(b) 1986 c.45.
(c) S.I. 1994/2507 amended by S.I. 2000/485, S.I. 2001/762, S.I. 2001/3649 and S.I. 2003/1633.

AMENDMENTS TO THE INSOLVENCY REGULATIONS 1994

Amendment to Regulation 5

1. For Regulation 5(2) there is substituted—

“(2) In the case of a voluntary winding up, the liquidator may make payments into the Insolvency Services Account to the credit of the company.”.

Amendment to Regulation 9

2.—(1) In Regulation 9 for paragraph (6) there is substituted—

“(6) Subject to paragraphs (6A) and (6B), at any time after 1st April 2004 whenever there are any monies standing to the credit of the company in the Insolvency Services Account the company shall be entitled to interest on those monies at the rate of 4.25 per cent per annum.

(6A) Interest shall cease to accrue pursuant to paragraph (6) from the date of receipt by the Secretary of State of a notice in writing from the liquidator that 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 but interest shall start to accrue again pursuant to paragraph (6) where the liquidator gives a further notice in writing to the Secretary of State requesting that interest should start to accrue again.

(6B) The Secretary of State may by notice published in the London Gazette vary the rate of interest prescribed by paragraph (6) and such variation shall have effect from the day after the date of publication of the notice in the London Gazette or such later date as may be specified in the notice.”.

(2) Where a notice that interest should cease is given pursuant to paragraph (6)(a) of regulation 9 as it stood immediately before the coming into force of these Regulations, that notice shall be treated as having been given for the purposes of paragraph (6A) as inserted by paragraph (1) above.

Amendment to Regulation 23A

3.—(1) In Regulation 23A, for paragraph (6) there is substituted—

“(6) Subject to paragraphs (6A) and (6B), at any time after 1st April 2004 whenever there are any monies standing to the credit of the estate of the bankrupt in the Insolvency Services Account the estate shall be entitled to interest on those monies at the rate of 4.25 per cent per annum.

(6A) Interest shall cease to accrue pursuant to paragraph (6) from the date of receipt by the Secretary of State of a notice in writing from the trustee that in the opinion of the trustee it is necessary or expedient in order to facilitate the conclusion of the bankruptcy that interest should cease to accrue but interest shall start to accrue again pursuant to paragraph (6) where the trustee gives a further notice in writing to the Secretary of State requesting that interest should start to accrue again.

(6B) The Secretary of State may by notice published in the London Gazette vary the rate of interest prescribed by paragraph (6) and such variation shall have effect from the day after the date of publication of the notice in the London Gazette or such later date as may be specified in the notice.”.

(2) Where a notice that interest should cease is given pursuant to paragraph (6)(a) of regulation 23A as it stood immediately before the coming into force of these Regulations, that notice shall be treated as having been given for the purposes of paragraph (6A) of Regulation 23A as inserted by paragraph (1) above.

Revocation of regulations 33, 34 and 36

4. Regulations 33, 34 and 36 are revoked.

Amendment to regulation 35

5. In paragraph (1) of regulation 35—

- (a) after the word “When” there are inserted the words “the official receiver acting as liquidator or trustee makes a distribution to creditors, supervises a special manager or”; and
- (b) the words “remuneration is not provided in these Regulations or” are omitted.

Omission of Table 1 in Schedule 2 to the principal Regulations

6. Table 1 in Schedule 2 to the principal Regulations is omitted.

Substitution of Table 2 and Table 3 in Schedule 2 to the principal Regulations

7. For Table 2 and Table 3 in Schedule 2 to the principal Regulations there is substituted—

“TABLE 2 – London rates

Grade according to the Insolvency Service grading structure/Status of Official	Total hourly rate £
D2/Official Receiver	65
C2/Deputy or Assistant Official Receiver	55
C1/Senior Examiner	50
B3/Examiner	40
B2/Administrator	40
B1/Examiner	35
B1/Administrator	40
A2/Administrator	35
A1/Administrator	30

TABLE 3 – Provincial rates

Grade according to the Insolvency Service grading structure/Status of Official	Total hourly rate £
D2/Official Receiver	60
C2/Deputy or Assistant Official Receiver	50
C1/Senior Examiner	45
B3/Examiner	40
B2/Administrator	37
B1/Examiner	33
B1/Administrator	36

A2/Administrator

31

A1/Administrator

27”.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Insolvency Regulations 1994. The requirement for voluntary liquidators to pay monies into the Insolvency Services Account contained in Regulation 5(2) of the 1994 Regulations is abolished (See paragraph 1 of the Schedule to the Regulations). Voluntary liquidators are however still permitted to pay monies into the Insolvency Services Account where this is convenient. Regulations 9 and 23A of the 1994 Regulations are amended so as to entitle companies in liquidation and the estates of bankrupts to accrue interest on any amounts standing to their credit on or after 1st April 2004 in the Insolvency Services Account. (See paragraphs 2 and 3 of the Schedule to the Regulations – prior to the coming into force of the Regulations interest is only payable on balances in the Insolvency Services Account which are in excess of £2,000). The rate of interest is set at 4.25% per annum. Provision is also made enabling the Secretary of State to alter the rate of interest payable.

Regulations 33, 34 and 36 of the 1994 Regulations are revoked as well as the associated table in Schedule 2 to the 1994 Regulations (see paragraphs 4 and 6 of the Schedule to these Regulations). These provisions permitted the official receiver to charge remuneration for the performance of certain functions.

Regulation 35 of the 1994 Regulations is amended so as to provide that the official receiver is entitled to remuneration under that regulation in respect of distributions to creditors and the supervision of a special manager (See paragraph 5 of the Schedule to the Regulations). The rates of remuneration payable by virtue of Regulation 35 have been increased to ensure the recovery of the costs of the functions in respect of which the remuneration is payable (This is achieved by substituting revised Tables 2 and 3 in Schedule 2 to the 1994 Regulations – see paragraph 7 of the Schedule to these Regulations.)

These Regulations make amendments to the financial arrangements in connection with the operation of the Insolvency Act 1986. These arrangements were considered in a regulatory impact assessment that was prepared in connection with the Enterprise Act 2002. Copies of this assessment are available from the Policy Unit, The Insolvency Service, 21 Bloomsbury Street, London WC1B 3QW.

STATUTORY INSTRUMENTS

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