

2005 No. 3524

INSOLVENCY

INSOLVENCY PRACTITIONERS

**The Insolvency Practitioners and Insolvency Services Account
(Fees) (Amendment) (No. 2) Order 2005**

Made - - - - - *29th December 2005*

Laid before Parliament *30th December 2005*

Coming into force

for the purpose of articles 1, 2, 3(1), 4 *30th January 2006*

for the purpose of article 3(2) *1st April 2006*

The Secretary of State, in exercise of the powers conferred upon him by section 415A of the Insolvency Act 1986(a), makes the following Order:—

Citation and commencement

1. This Order may be cited as the Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) (No. 2) Order 2005 and shall come into force on 30th January 2006, except for article 3(2), which shall come into force on 1st April 2006.

Amendment to the Insolvency Practitioners and Insolvency Services Account Order 2003

2. The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003(b) (“the principal Order”) is amended as set out below.

3.—(1) Subject to article 4, for paragraph (2) of article 2 of the principal Order, there is substituted the following—

“(2) On or before 1st April each year, there shall be paid to the Secretary of State by each body recognised pursuant to section 391 in respect of the maintenance of that body’s recognition pursuant to section 391, a fee calculated as set out in paragraphs (2A) and (2B) below.

(2A) In respect of the fee due on or before 1st April 2006, the fee shall be calculated by multiplying £150 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.

(2B) In respect of the fee due on or before 1st April in each subsequent year, the fee shall be calculated by multiplying £200 by the number of persons who as at the preceding 1st

(a) Section 415A was inserted into the Insolvency Act 1986 (c.45) by section 270 of the Enterprise Act 2002 (c.40).
(b) S.I. 2003/3363, amended by S.I. 2004/476 and S.I. 2005/523.

January in that year were authorised to act as insolvency practitioners by virtue of membership of that body.”.

(2) In paragraphs (2), (3), (4) and (5) of article 3 of the principal Order, for “£2,000” in each place where it is mentioned, there is substituted “£2,100”.

4.—(1) This article applies to a body recognised pursuant to section 391 of the Insolvency Act 1986 that—

- (a) pursuant to article 2(2) of the principal Order (as it stood before the coming into force of this Order) makes a payment by reference to the number of persons who as at 1st January 2006 were authorised to act as insolvency practitioners by virtue of membership of that body; and
- (b) makes that payment in the period commencing on 1st January 2006 and ending with the day before the day on which this article comes into force.

(2) The insertion of article 2(2A) into the principal Order by article 3 of this Order shall not require a body to which this article applies to make any further payment by reference to the number of persons who as at 1st January 2006 were authorised to act as insolvency practitioners by virtue of membership of that body.

29th December 2005

Meg Munn
Parliamentary Under Secretary of State for Women and Equality
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003 (S.I. 2003/3363) (“the principal Order”) by increasing the fee to be paid in relation to the authorisation of insolvency practitioners and the recognition of professional bodies. Section 415A, under which this Order and the principal Order are made, was inserted into the Insolvency Act 1986 (c.45) by section 270 of the Enterprise Act 2002 (c.40).

Article 3(1) of this Order amends article 2(2) of the principal Order and makes provision for increases over two years of the fees to be paid by bodies recognised pursuant to section 391 of the Insolvency Act 1986, in respect of the maintenance of their recognition under that section. The provisions of article 2(2) of the principal Order required payment to be made on or before 1st April 2006 by reference to the multiplicand which then applied, that is to say £100, before it was amended by this Order. Article 4 provides that no further payment is required on or before 1st April 2006 where a body has, prior to this Order coming into force, already made a payment under the principal Order by reference to its membership at 1st January 2006.

Article 3(2) of this Order amends article 3 of the principal Order and makes provision for an increase in the fees to be paid by persons who are holders of an authorisation, in respect of the maintenance of those authorisations. Article 3(5) of the principal Order continues to make provision for a pro-rata reduction of the increased fee in respect of the maintenance of the authorisation in cases where the authorisation has less than a year to run.

The fees are designed to recover the costs associated with the monitoring of insolvency practitioners authorised by the Secretary of State, including the making of monitoring visits and the handling of complaints, and with the recognition of professional bodies. 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 Secretary of State continue to be fit and proper to hold an authorisation.

The fee for maintenance of the recognition of professional bodies is currently £100 per member.

These fees were fixed on 1st April 2004 at a level based upon assumptions made as to the costs of the recognition, authorisation and monitoring functions. However, the administrative costs of these have proved to be higher than expected and their level no longer covers the costs associated with the functions referred to. It was accordingly decided that the fees under article 2(2) of the principal Order should be raised from £100 to £150 for the year beginning 1st April 2006, and from £150 to £200 for the year beginning 1st April 2007; and that the fees under article 3 of the principal Order should be raised from £2000 to £2,100 to cover the costs associated with deciding applications for authorisation.

A regulatory impact assessment was prepared for the Enterprise Act 2002. This deals with the restructuring of the system of insolvency fees. Copies of this assessment are available from the Policy Unit, The Insolvency Service, 21 Bloomsbury Street, London, WC1B 3SS. No regulatory impact assessment has been prepared for this Order.

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