

**EXPLANATORY MEMORANDUM TO  
THE INSOLVENCY PRACTITIONERS AND INSOLVENCY SERVICES ACCOUNT  
(FEES) (AMENDMENT) ORDER 2007**

**2007 No. 133**

- 1.** This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Description**

2.1 The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003 (S.I. 2003/3363, as amended), (“the Principal Order”), makes provision for the payment of fees in relation to the authorisation of insolvency practitioners under section 393 of the Insolvency Act 1986 and in respect of the operation of the Insolvency Services Account and payments into and out of that Account.

2.2 The Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) Order 2007 (“the Order”) increases the fee payable to the Secretary of State in respect of his functions of monitoring and authorising insolvency practitioners from £2,100 to £2,500. The Principal Order currently imposes a charge of 15p for the transfer of funds held in the Insolvency Services Account which are made by way of the Bankers Automated Clearing (BACS) or any other electronic payments system. The Order distinguishes from these other electronic transfers, those transfers made by way of the Clearing House Automated Payments System (CHAPS), and introduces a fee of £10 in respect of them.

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

There are no matters of special interest to the Joint Committee on Statutory Instruments

- 4. Legislative Background**

Section 270 of the Enterprise Act 2002 introduced section 415A into the Insolvency Act 1986, under which the Order is made. Section 415A made provision permitting the Secretary of State by order to require the payment of fees in relation to the authorisation of insolvency practitioners under section 393 of the Insolvency Act 1986 and in respect of the operation of the Insolvency Services Account and payments into and out of that Account.

## **5. Extent**

This instrument applies to England, Wales and Scotland.

## **6. European Convention on Human Rights**

No statement is required because the Order, although required to be laid after being made, is not subject to any further parliamentary proceedings and does not amend primary legislation.

## **7. Policy background**

7.1 The new financial regime implemented on 1 April 2004 for the Insolvency Service and provided for by the coming into force of the Enterprise Act 2002, included a new fee regime that was intended to be simpler, fairer and more transparent and to match income to costs in line with the Treasury Fees and Charges Guide. There is a requirement under the Treasury Fees and Charges Guide to review fee levels annually.

7.2 As a consequence, fee changes were made on 1 April 2006 to the Secretary of State's monitoring and authorisation function to bring the fee, currently £2,100, part way to meeting the full cost of that function. The increase made by the Order, to £2,500, will bring the fee up to the level at which it will achieve full cost recovery.

7.3 As to the fee for the electronic transfer of funds, this currently stands at 15p per transfer where these are effected by any electronic payments system, including by way of the Bankers Automated Clearing system (BACs) and by way of the Clearing House Automated Payments system (CHAPs). However, CHAPs transfers are being charged to the Insolvency Services Account at the much higher rate of £10 per transfer and the Order remedies this disparity by singling out and increasing the fee for the use of the CHAPs system to £10 per transfer to reflect its actual cost.

## **8. Impact**

A Regulatory Impact Assessment was prepared for the Enterprise Act 2002 but no regulatory impact assessment has been prepared for this Order.

## **9. Contact**

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