THE INSOLVENCY SERVICE

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Date: 8 March 2010

**Dear Consultee,**

**Consultation on the official receiver becoming trustee of the bankrupt's estate on the making of a bankruptcy order and removal of the requirement to file a 'no meeting' notice in certain company winding up cases**

I am seeking your views on three proposals designed to simplify and streamline the bankruptcy and company case administration process.

The proposals are as follows:

1. That the official receiver automatically becomes trustee of a bankrupt's estate upon the making of the bankruptcy order, and remains in office unless and until such time as an insolvency practitioner - as is the case now - is appointed trustee in his or her place. This change is suggested in order to bring bankruptcy into line with other insolvency procedures.
2. As a consequential change, the term 'interim receiver' should be changed to *'receiver'*.
3. Remove the requirement to file a 'no meeting' notice in cases where a secretary of state appointment has been made shortly after the making of the company winding up order.

I set out below the background and details of the proposals, together with a summary Impact Assessment.

**Overview**

Bankruptcy is the only court initiated insolvency procedure that provides an initial period during which the official receiver's duties are restricted just to protecting the estate. For example, when a winding up order is made against a company, if an insolvency

practitioner is not named as the liquidator, the official receiver immediately becomes liquidator of the company. Similarly, the official receiver becomes liquidator when a winding up order is made against a partnership, and he or she is also appointed trustee by the court where bankruptcy orders are made against any of the members of a partnership.[1]

In making this proposal, our primary objective is to simplify the administration of bankruptcy. For example, this would not only make the bankruptcy process clearer, more transparent and consistent with other insolvency procedures, but would also help deliver savings to all those affected by a bankruptcy - whether as creditors, the official receiver or the bankrupt him/herself - by encouraging the most efficient use of time and operational resources. For instance, under this proposal it would no longer be necessary for the official receiver to prepare, send to creditors and file at court a notice that no meeting of creditors is being called. This would currently happen in cases where the official receiver is purely seeking to apply to the secretary of state for the appointment of an insolvency practitioner to act as trustee in bankruptcy in his or her place. In these circumstances, this additional administrative duty builds in an artificial component to the process, and adds resource implications.

**Detail**

Currently, on the making of either a bankruptcy order or an insolvency administration order[2], the official receiver becomes receiver and manager of the bankrupt's estate[3]. Thus, between the making of the bankruptcy order and the time at which the bankrupt's estate vests in a trustee, the official receiver is the receiver and (subject to the appointment of a special manager[4]) the manager of the bankrupt's estate[5].

As receiver and manager, the official receiver is responsible for protecting the assets of the insolvent person, which involves taking immediate steps to secure any property or assets which are comprised in the bankruptcy estate. The official receiver is therefore limited to protecting the assets and value of the estate for the benefit of those entitled to it, principally the creditors. This can include seizing and disposing of perishable goods comprised in the estate, the value of which is likely to diminish if they are not dealt with quickly. However, the property of the debtor remains vested with the bankrupt, albeit subject to the control of the official receiver, until such time as a trustee is in office to deal with the debtor's affairs. This position can cause confusion and in some cases additional expense when dealing with some assets, particularly rights of action and trading businesses. The official receiver is also prevented from dealing with onerous

[1] Insolvency Partnership Order 1994
[2] The Administration of Insolvency Estates of Deceased Persons Order 1986
[3] Section 287 Insolvency Act 1986
[4] Section 370 Insolvency Act 1986
[5] Section 287 Insolvency Act 1986

property between the making of the bankruptcy order and the trustee taking office. Consequently, the powers and scope of the official receiver in his duty as receiver and manager to safeguard the bankruptcy estate are limited.

With the exception of a vacancy in office[6], there are currently two ways in which a trustee can come into office when the official receiver is acting as receiver and manager[7].

The first instance is where the official receiver has given notice to the court of his or her decision not to call a meeting of creditors for the purpose of appointing a trustee[8]. Within 12 weeks of the making of the bankruptcy order, the official receiver must decide whether to summon a general meeting of creditors to appoint a trustee or to issue a notice informing creditors that a meeting will not be held. On filing the notice of his or her intention not to call a meeting at the court (which is also sent to all known creditors) the official receiver becomes trustee in bankruptcy and is able to exercise his or her powers as trustee in the protection and realisation of the bankruptcy estate. Only as trustee is the official receiver then able to apply to the secretary of state who can appoint an insolvency practitioner to act as replacement trustee. In addition creditors have the right to requisition a general meeting[9] , which under our proposals, would remain.

The second instance is if the official receiver calls a first meeting for the purpose of appointing a trustee. The first meeting must be held no later than four months from the date of the bankruptcy order[10]. This allows creditors the opportunity to express their views and to be involved in the decision of which insolvency practitioner will be appointed as the trustee in bankruptcy.

Thus, unless an insolvency practitioner is appointed at a first meeting of creditors, the official receiver is currently unable to apply for the appointment of an alternative trustee, nor is he or she able to act as trustee until the notice of ‘no meeting’ has been prepared and filed at court. This serves to add a further delay in dealing with the administration of the bankruptcy estate, which, with the development of insolvency legislation and practice, adds limited benefits to the personal bankruptcy case administration process.

**Background to the current position and the benefits of change**

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[6] Section 300(2) Insolvency Act 1986

[7] This excludes the court’s powers of appointment under s. 297(4) and 297 (5) Insolvency Act 1986 which apply only on the making of the order.

[8] Section 297(6) Insolvency Act 1986

[9] Section 294 Insolvency Act 1986

[10] Rule 6.79(1) Insolvency Rules 1986

Prior to the Insolvency Act 1986[11], entry into bankruptcy involved a two-stage process. On receipt of a petition, the court would first make a receiving order under which the official receiver would become receiver and manager of the insolvent's estate. After some initial inquiries as receiver and manager, the official receiver would then apply to the court for an adjudication of bankruptcy. Whilst the new legislation introduced the concept of an immediate bankruptcy order, it retained the old concept of a receiver and manager followed by the subsequent appointment of a trustee.

As the bankruptcy process and case administration procedures have developed and changed, so too has the need for a receiver and manager. Providing for the official receiver to become trustee on the making of a bankruptcy order would offer consistency and certainty in the case administration process for the benefit of creditors, the bankrupt and insolvency practitioners. It would also remove the complication in the process of making applications to the secretary of state for the appointment of a trustee in cases where assets need to be dealt with urgently.

Currently, even if the appointment of an insolvency practitioner is desired urgently in order to deal with assets, the official receiver has to still first become trustee before an appointment could be made by the secretary of state. Under our proposal, there would no longer be a need to file the notice of 'no meeting' at court in order for the official receiver to become trustee, offering resource and administrative savings for official receivers (over £1.1 million) , the court services and creditors who receive the paperwork. The attached Impact Assessment summarises the main savings.

If the official receiver were to become trustee on the making of the bankruptcy order, the official receiver would be able to use the wider powers of a trustee in circumstances where immediate action is needed. For example, where assets are in jeopardy and would be better protected or a better realisation value could be achieved by an immediate sale without the added delays of needing to demonstrate the property as a diminishing asset; or where assets continue to be stored or protected through insurance and any related charges would in effect reduce the net value of the bankruptcy estate.

Our proposals would also bring personal insolvency in England and Wales in line with current Scottish legislation. Under the Bankruptcy (Scotland) Act 1985, where the Accountant in Bankruptcy or sheriff grants a bankruptcy order and does not appoint a person to be the trustee, the Accountant in Bankruptcy automatically becomes trustee of the bankrupt's estate[12].

[11] Bankruptcy Act 1914
[12] Section 2(1B), (1C) and (2) Bankruptcy (Scotland) Act 1985

**Change of term 'interim receiver' to 'receiver'**

As a consequence of this first proposal there would also be a requirement to change the term 'interim receiver'. Between the presentation of the bankruptcy petition and the making of the order, to ensure the protection of the debtor's property in necessary cases, the court has the power to appoint an interim receiver[13]. In a company winding up, the interim receiver equivalent, who would either be the official receiver or an insolvency practitioner, is a provisional liquidator[14]. With the removal of the function of the receiver and manager in bankruptcy cases, I am also proposing to change the term 'interim receiver' to simply *' receiver'*. This is intended to better describe the role of the official receiver or insolvency practitioner (this is the subject of a separate proposal to remove the current restriction of only allowing the official receiver to act in this office) appointed prior to the making of the bankruptcy order but after the presentation of the petition.

**Removal of requirement to file 'no meeting' notices**

In all circumstances, the secretary of state has the power to appoint an insolvency practitioner in place of the official receiver as trustee or liquidator[15]. In some cases there may be an urgent need to appoint a trustee or liquidator other than the official receiver to deal with particular assets or property. There may not be time for convening and holding a meeting of creditors. Before the official receiver makes such an application, the views of a majority of the creditors' must have been sought and adhered to and in bankruptcy cases, as described above, a notice of 'no meeting' must be filed at the court to give the official receiver status as trustee before an application for a secretary of state appointment can be made. Furthermore, in company cases where the official receiver is already liquidator, a notice of no meeting must still be filed in every case[16].

I am proposing that in cases where secretary of state applications for company cases are made within the period in which a decision to call a meeting or not must be made, the official receiver will no longer be required to give formal notice of 'no meeting' to the court. This is designed to streamline the administration in such insolvency cases.

The statutory report to creditors will still be issued[17], so that creditors are informed of the action taken by the official receiver. Additionally, the trustee or liquidator (as the case may be) will still be required to inform creditors of their appointment.

**What is not changing**

[13] Section 286 Insolvency Act 1986
[14] Section 135 Insolvency Act 1986
[15] Section 296 and 137 Insolvency Act 1986
[16] Section 136 Insolvency Act 1986
[17] Rules 4.43(1) and 6.73(1) Insolvency Rules 1986

As outlined above, these proposals would not alter the exchange of information between the official receiver and creditors through, for example, the report to creditors. The right of creditors to express their views regarding the appointment of a trustee would also remain unchanged, as would the creditors' right to requisition a first meeting for the purpose of appointing an insolvency practitioner as trustee[18].

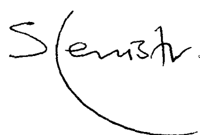
Presently, the official receiver as trustee may summon a general meeting at any time in order to ascertain the wishes of creditors in any matter regarding the bankruptcy, including to appoint a trustee other than the official receiver[19] and this would still be the position under our proposal. As an alternative to holding a meeting of creditors, the secretary of state's power to appoint an insolvency practitioner as trustee would also remain[20]. The official receiver would also still seek the appointment of an insolvency practitioner as trustee in every case where that is appropriate, as is the case now.

The three questions this consultation letter poses, therefore, are:

1. Should the official receiver be appointed trustee of the bankrupt's estate on the making of a bankruptcy order?
2. Should the term 'interim receiver' change to 'receiver' to better reflect his or her new function?
3. Should the need to file the 'no meeting' notice be removed for company cases where a liquidator is appointed by the secretary of state in the period between the making of the order and the time when the official receiver is required to inform creditors of his/her decision on whether, or not, to call a meeting ?

I would welcome hearing your comments and would be grateful for your views on any consequences not already identified, which could result from the proposals put forward in this letter. If you are aware of anyone else who you think may have an interest, please feel free to pass on a copy of this letter as appropriate. All views should be sent to The Insolvency Service Policy Unit at policy.unit@insolvency.gsi.gov.uk or by post to The Insolvency Service, Zone B, 3rd Floor, 21 Bloomsbury Street, London WC1B 3QW by **Monday 31st May 2010**.

Yours faithfully



Stephen Leinster
Director of Policy

[18] Section 292(1)(a) and section 194 Insolvency Act 1986
[19] Rule 6.81 Insolvency Rules 1986
[20] Section 296 Insolvency Act 1986

# Summary: Intervention & Options

| Department /Agency: | Title: | |
|---|---|---|
| The Insolvency Service | Impact Assessment of the official receiver becoming trustee and amending the requirement to file notices of 'no meeting' | |
| **Stage:** Consultation | **Version:** 1 | **Date:** 8 March 2010 |
| **Related Publications:** N/A | | |

**Available to view or download at:**

http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_reg

**Contact for enquiries:** Maria Isanzu **Telephone:** 02072916733

What is the problem under consideration? Why is government intervention necessary?

The statutory requirement to file a notice of 'no meeting' in the vast majority of bankruptcy cases and some company cases is time consuming and involves a duplication of notices while adding costs into the case administration process. These costs include the time taken by official receiver staff to prepare and send the notices and the time for court staff to file the notices. Government intervention is necessary to introduce savings and efficiency into the case administration process, which can only be achieved by amending the Insolvency Act1986.

What are the policy objectives and the intended effects?

To simplify the bankruptcy case administration process by making it clearer, more transparent and consistent with other insolvency procedures

To streamline the administration of company cases by removing the need for inconsequential filing where the secretary of state has already appointed a liquidator to replace the official receiver.

To help deliver savings to creditors and the official receiver by encouraging the most efficient use of time and operational resources.

What policy options have been considered? Please justify any preferred option.

Two options have been considered for potential further action:

1. Do nothing
2. The official receiver to become trustee of the bankrupt's estate on the making of a bankruptcy order thus removing the requirement to file a separate no meeting notice in all bankruptcy cases to enable the official receiver to become trustee and; amending the issuing of no meeting notices in company cases where the secretary of state has appointed a replacement liquidator.

Option 2 is preferred as this will meet all the outlined objectives

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The changes are expected to be made when Parliamentary time allows and it would be evaluated three years after implementation.

**Ministerial Sign-off** For SELECT STAGE Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

..........................................................................................................Date:

## Summary: Analysis & Evidence

| Policy Option: 2 | Description: The official receiver to become trustee on the making of a bankruptcy order and amending the 'no meeting' notice filing requirement |
|---|---|

**COSTS**

| ANNUAL COSTS | | Description and scale of **key monetised costs** by 'main affected groups' |
|---|---|---|
| **One-off** (Transition) | **Yrs** | Beyond familiairation costs which can be absorbed by in-house training and via information through internal publications, there are minimal costs. |
| **£ N/A** | | |
| **Average Annual Cost** (excluding one-off) | | |
| **£ N/A** | | **Total Cost** (PV) **£ N/A** |

Other **key non-monetised costs** by 'main affected groups' None

**BENEFITS**

| ANNUAL BENEFITS | | Description and scale of **key monetised benefits** by 'main affected groups' |
|---|---|---|
| **One-off** | **Yrs** | The main affected group is the official receiver's office who will see a reduction in costs and time spent in the production and issuing of no meeting notices. This has been calculated at a total of £1,352,482 |
| **£ 1,352,482** | 1 | |
| **Average Annual Benefit** (excluding one-off) | | |
| **£ Ongoing** | | **Total Benefit** (PV) **£ 1,352,482** |

Other **key non-monetised benefits** by 'main affected groups' Official receiver's offices will have more time to carry out the daily administration and, where appropriate, investigation of insolvent estates. Courts, insolvency practitioners and creditors will have reduced paperwork, generating administrative savings and introduced consistency with other insolvency procedures.

Key Assumptions/Sensitivities/Risks The calculations for the savings to the Insolvency Service are based on 2008-9 costings for official receiver staff and consumables. Figures are provided by the Insolvency Service. If bankruptcy and company numbers, staffing costs and printing costs increase or decrease then the estimated cost will vary accordingly.

| Price Base Year 2009 | Time Period Years 1 | **Net Benefit Range** (NPV) **£ N/A** | **NET BENEFIT** (NPV Best estimate) **£ N/A** |
|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| What is the geographic coverage of the policy/option? | | | England and Wales | |
| On what date will the policy be implemented? | | | | |
| Which organisation(s) will enforce the policy? | | | Insolvency Service | |
| What is the total annual cost of enforcement for these organisations? | | | £ N/A | |
| Does enforcement comply with Hampton principles? | | | Yes/No | |
| Will implementation go beyond minimum EU requirements? | | | No | |
| What is the value of the proposed offsetting measure per year? | | | £ N/A | |
| What is the value of changes in greenhouse gas emissions? | | | £ N/A | |
| Will the proposal have a significant impact on competition? | | | No | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro | Small | Medium | Large |
| Are any of these organisations exempt? | No | No | N/A | N/A |

**Impact on Admin Burdens Baseline** (2005 Prices) (Increase - Decrease)

Increase of £ Decrease of £ **Net Impact £**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

# Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

**Introduction**

This Impact Assessment accompanies the consultation paper entitled '*Consultation on the official receiver becoming trustee of the bankrupt's estate on the making of a bankruptcy order and removal of the requirement to file a 'no meeting' notice in certain company winding up cases'.* The paper outlines the Insolvency Service's proposals to amend the Insolvency Act 1986 to provide for the official receiver to become trustee of the bankrupt's estate on the making of the bankruptcy order and to remove the requirement for the official receiver to send a 'no meeting' notice in cases where a secretary of state has appointed a replacement liquidator. The following document considers the potential impact of the proposals, primarily on the work of the official receiver's office.

Data held by the Insolvency Service on the third sectors and by private practice is limited and we would welcome quantitative information from creditors and insolvency practitioners and their respective bodies, as well as other government departments, which would broaden our assumptions on the benefits to other service sectors.

**Background**

Appointment of official receiver as trustee on the making of the bankruptcy order

In 2008-9, 77,060 bankruptcy orders were made in total in England and Wales. Unless the court appoints an insolvency practitioner to act as trustee at the same time as the making of the bankruptcy order, the official receiver becomes receiver and manger of the bankrupt's estate[1]. In the same year the official receiver filed a notice of 'no meeting' at court in 69,182 cases as shown in table 1 below.

**Table 1: Number of bankruptcy and winding up orders made and 'no meeting' notices issued in 2008-9**

| | **Bankruptcy Order (Individual)** | **Winding up Order (Company)** |
|---|---|---|
| Orders made in 2008-9 | 77,060 | 5,969 |
| Number of cases where a no meeting notice has been issued | 69,182 | 5,831 |
| Number of cases where a no meeting notice has been issued and a secretary of state appointment has been made for a replacement liquidator | N/A | 711 |

Source: The Insolvency Service statistics

Therefore, this constitutes 90% of all bankruptcy cases in 2008-9 (see table 2) where the official receiver went on to become trustee on the filing of a no meeting notice at court. As the decision to file a notice is required to take place within 12 weeks of the making of the order[2], until the no meeting notice is filed, the official receiver is unable to carry out any of the duties or exercise any of the powers of a trustee, including applying to the secretary of state for the appointment of a replacement trustee.

[1] Section 287 Insolvency Act 1986
[2] Section 293 Insolvency Act 1986

As receiver and manager the official receiver's primary function is to protect and secure the property comprised in the estate until such time as a trustee comes into office. Whilst a decision is pending and prior to a notice being filed, there is a period whereby assets remain vested in the bankrupt. As the official receiver's functions and powers are limited to purely protecting the estate, any potential loss to the estate remains until such time a trustee is in office.

**Table 2: Percentage of cases where a 'no meeting' notice is issued in 2008-9**

| | Bankruptcy Orders (Individuals) | Winding up Orders (Company) |
|---|---|---|
| No meeting notices issued | 90% | 98% |
| No meeting notices issued after the secretary of state has appointed a replacement liquidator | N/A | 13% |

In contrast, when a bankruptcy order is made under the Insolvency Partnership Order 1994, or when a compulsory winding up order is made at the court, the official receiver, on the making of those orders, is immediately appointed trustee or liquidator (respectively) and is able to carry out his functions and duties in realising the insolvent estate.

If the official receiver were appointed trustee immediately on the making of the order, this would offer scope to exercise the powers of a trustee in the vast majority of cases to deal with the bankruptcy estate in a timely way for the benefit of all creditors. In addition, the official receiver could also seek the prompt secretary of state appointed for a replacement trustee where appropriate.

Requirement to file a 'no meeting' notice after the appointment of a replacement liquidator by the secretary of state

In company cases, with the exception of an immediate appointment of an insolvency practitioner as liquidator at court, the official receiver will become the liquidator of a company on the making of a winding-up order and will continue in office unless an insolvency practitioner is appointed liquidator.

After a winding up order is made the secretary of state can appoint an insolvency practitioner prior to the official receiver sending creditors and contributories a notice that a meeting will not be held. The circumstances in which these cases arise include where it is beneficial to the protection and realisation of the insolvent estate if a specialist liquidator is appointed promptly. This could mean an appointment is needed before all the creditors are known to the official receiver.

Internal operational practices mean in these circumstances creditors are kept informed and, wherever possible, their wishes are sought and followed, before a secretary of state application is made by the official receiver. A flowchart of this process can be found in Annex A.

A no meeting notice is also prepared and issued to creditors and the court by the official receiver, informing creditors that a meeting will not be called to appoint a replacement liquidator as the secretary of state has already appointed one. This is usually accompanied by a report to creditors[3]. The notice and report is in addition to a letter which the newly appointed liquidator sends to creditors to notify them of his or her appointment[4].

[3] Rule 4.43(1) Insolvency Rules 1986
[4] Section 137(4) Insolvency Act 1986

Although this occurs, on average, in 13% of all company liquidation cases (see table 2), there are cost and administrative implications in the preparation and issuing of notices which repeat the same information. Taking into account the number of applications per year (711 as shown in table 1), by removing the need to send a no meeting notice after the secretary of state appointment of a replacement liquidator, the cost to the Insolvency Service alone could equate to both time and resource savings which would be best served in the administration and investigation of the insolvent estate, and any realisation for the benefit of creditors.

The policy objectives in the official receiver becoming first trustee and amending the filling requirement for the notice of no meeting is also to make the process more consistent with other insolvency procedures, while simplifying the case administration process for both bankruptcy and company cases. This would also help deliver savings to all those affected by an insolvency - whether as a creditor, the official receiver or the bankrupt him/herself - by encouraging the most efficient use of time and operational resources.

**Policy Options**

Option 1: Do nothing. This option makes no changes to the current system for bankruptcy or company cases. Although this option would involve no additional costs, neither would it generate any operational (or administrative) benefits. Bankruptcy would remain inconsistent with other insolvency procedures and the time taken before the official receiver is able to carry out his trusteeship duties in the vast majority of bankruptcy cases would remain drawn out and in some cases.

Option 2: The official receiver to become trustee of the bankrupt's estate on the making of a bankruptcy order thus removing the requirement to file a separate no meeting notice in all bankruptcy cases in order for the official receiver to become trustee; and amending the issuing of no meeting notices in company cases where the secretary of state has already appointed a replacement liquidator. The amendment would be accompanied by a requirement to expand the official receiver's internal reporting requirement to notify creditors (through the report issued to creditors[5]) of his/her decision not to call a meeting.

The main cost and benefits of removing the filing requirement would apply to the Insolvency Service, creditors (business and HM Revenue and Customs) and HM Court Services. An analysis of the costs and benefits to the Insolvency Service is outlined below.

**General costs**

All the proposed benefits to the time saved by Insolvency Service staff in processing the no meeting notice forms and printing costs are based on case numbers and costings for 2008-9.

Familiarisation costs

The proposals will affect primarily creditors and insolvency practitioners, court staff and the official receiver's office. For creditors and insolvency practitioners, they will no longer receive no meeting notices, but instead will receive, in some company cases, information in a report (and on the order in bankruptcy cases) which will have the same effect. We therefore do not anticipate there will be significant familiarisation costs surrounding the removal of the requirement to file a no meeting notice and the appointment of the official receiver as trustee on the making of the order to be beyond that involved in their general organisational day-to-day training and development.

[5] Rule 4.43 Insolvency Rules 1986

For official receiver staff and court staff, they will need to amend their procedures in generating orders (for instance, the wording on the order will change) and preparing no meeting notices. We anticipate this will not incur any additional costs to the Insolvency Service or to court staff beyond their general staff training costs contained within existing organisational budgets.

### Costs for filing 'no meeting' notices

In 2008-9 the official receiver became trustee after the filling of a no meeting notice in 69,182 cases. The cost of filing a no meeting notice is weighted mainly on the official receiver and therefore arguably, indirectly on creditors. Whilst the financial costs of complying with this requirement may not be great, they do nevertheless need to be incurred, resulting in a loss to the insolvent estate, particularly in terms of time. This also reduces the amount of money that may be available to creditors. Savings of the removal of the filling requirement would offer time savings in the official receiver's office, which would be better used in other areas of case administration and investigation work.

We have calculated the cost to the Insolvency Service in making a decision, generating and issuing no meeting notices in both company and bankruptcy cases to be £1,352,482 based on staffing and printing costs (see table 7 below).

Staffing costs

In 2007, a number of Examiners and case officer staff from a sample range of official receiver offices in England and Wales were asked to record the time it took them to carry out particular tasks for the administration of company and bankruptcy cases. Using this data and the number of orders made in 2008-9, tables 3 and 4 show the time that could be saved if the requirement to file a no meeting notice was removed in the cases specified in the consultation paper. Table 3 shows a total of £1,319,993 could be saved per year if the official receiver was appointed trustee on the making of the order rather than on the filling of a no meeting notice.

**Table 3: Time saved by Insolvency Service staff in processing 'no meeting' notices in bankruptcy cases**

| Staff Grade | Time spent processing (mins per notice) | £ Staff hourly rate[6] | £ Cost per notice | Notices per annum[7] | Equivalent cost saved per annum £ |
|---|---|---|---|---|---|
| A2 Case Officers | 27 | 35.52 | 15.98 | 69,182 | 1,105,528.36 |
| B3 Examiners | 4 | 46.5 | 3.10 | 69,182 | 214,464.20 |

The following table shows that £13,566 could be saved in company cases where a no meeting notice is sent after a replacement liquidator has already been appointed by the secretary of state.

**Table 4: Time saved by Insolvency Service staff in processing 'no meeting' notices in company cases**

| Staff Grade | Time spent processing (mins per notice) | £ Staff hourly rate | £ Cost per notice | Notices per annum | Equivalent cost saved per annum £ |
|---|---|---|---|---|---|
| A2 Case Officer | 27 | 35.52 | 15.98 | 711 | 11,361.78 |

[6] Staff hourly rate includes Salary, ERS NIC and Supperannuation costs. Average of 33 provincial and 7 HQ salary rates applied as per average salary

[7] The average number of creditors is taken from the median of the number of creditors in bankruptcy and company cases in 2004/5 to 2006/7. See The Insolvency Service – Profiles 2005/6 to 2007/8. The calculation therefore takes into account a copy generated for the case file, a for the court, and seven copies to the average number of known creditors, totalling nine notices altogether.

| B3 Examiners | 4 | 46.5 | 3.10 | 711 | 2,204.10 |
|---|---|---|---|---|---|

Printing costs

In addition to staffing costs, there are also printing and ancillary costs to producing two-page notices for an average of seven creditors, as well as for the court and the official receiver's case file[8]. Tables 5 and 6 show the costs to the Insolvency Service of printing an average of nine no meeting notices for company and bankruptcy cases.

**Table 5: Cost of printing the 'No Meeting' notices**

| Sheets | £ Cost per 250 sheets | Notices per annum | 9 packs required | 2 sheets per notice | Total paper cost per annum £ |
|---|---|---|---|---|---|
| 250 | 1.927 | 69,893 | 629,037 | 1,258,074 | 9,697.23 |

**Table 6: Cost of printing consumable costs (estimated)**

| Sheets per drum | Cost per drum + consumables £ | Sheets printed | Cost per annum £ |
|---|---|---|---|
| 15,000 | 110 | 1,258,074 | 9,226 |

No meeting notices are often accompanied by a report sent to the court and all known creditors, summarising the affairs of the insolvent. This provision will remain[9] in order to ensure the balance of the rights of creditors is maintained. For this reason postage costs have not been taken into consideration in calculating the cost benefits to the official receiver in sending notices.

## Benefits of the proposals

The benefit to creditors and the official receiver staff will be the removal of an unnecessary requirement that is already covered by remaining statutory and operational provisions. Rather than sending a notice on a single issue, the official receiver can send a report on the affairs of the insolvent estate, thus increasing the amount of time official receiver staff have to deal with other insolvency matters and to deliver benefits to the administration of insolvent estates.

Insolvency practitioners, creditors and court staff will also see benefits from the flexibility (an insolvency practitioner can be appointed sooner after the making of a bankruptcy order) these streamlining measures provide and in their own administrative savings in not having to deal with multiple paperwork. The total calculated savings to the Insolvency Service, based on 2008-9 figures, can therefore be summarised at £1,352,481.67 as shown in the table below:

**Table 7: Total savings the proposed changes would offer the Insolvency Service per annum**

| Official receiver staff cost saved per annum (bankruptcy) | Official receiver staff cost saved per annum (company) | Total printing cost per annum | Total cost of printing consumables per annum | **Total savings to the official receivers office** |
|---|---|---|---|---|
| 1,319,992.56 | 13,565.88 | 9,697.23 | 9,226 | **£1,352,481.67** |

[8] See reference 7

[9] From the 6th April 2010 there will no longer be a requirement for the official receiver to file a report to creditors at court as per rule 4.43(2) Insolvency Rules 1986. This change will be brought in by the Insolvency (Amendment) Rules 2010.

These savings help to achieve our objectives in simplifying the case administration process. This is done by introducing consistency of the official receiver's duties with other insolvency procedures while encouraging the most efficient use of time and operational resources. These savings can then be passed on indirectly to creditors through the efficient use of the Insolvency Service time and finances.

**Specific Impact Tests**

Competition Assessment
No impact on competition as the work involved can only be carried out by the Insolvency Service and will reduce costs for primarily creditors (including other government departments), the Insolvency Service and the court services.

Small Firms Impact Test
No adverse impact.

Legal Aid
No impact.

Sustainable Development
The proposals do encourage a reduction in the amount of paper printed, but they do not have a direct impact on sustainable development.

Carbon Assessment
As above – see 'Sustainable Development'.

Other Environment
As above – see 'Sustainable Development'. Due to the level of the proposed changes, the savings and benefits to the environment do not warrant a separate impact assessment.

Health Impact Assessment
No direct impact

Race, Disability and Gender Equality
The proposals do not have an adverse or disproportionate impact on any individual or group of people based on race, disability or gender.

Human Rights
As above – see 'Race Equality'

Rural Proofing
No impact

# Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

| **Type of testing undertaken** | ***Results in Evidence Base?*** | ***Results annexed?*** |
|---|---|---|
| Competition Assessment | No | No |
| Small Firms Impact Test | No | No |
| Legal Aid | No | No |
| Sustainable Development | No | No |
| Carbon Assessment | No | No |
| Other Environment | No | No |
| Health Impact Assessment | No | No |
| Race Equality | No | No |
| Disability Equality | No | No |
| Gender Equality | No | No |
| Human Rights | No | No |
| Rural Proofing | No | No |

## Flowchart for Appointment of Trustees and Liquidators by the Secretary of State