

2007 No.

INSOLVENCY, ENGLAND AND WALES

FEES

The Insolvency Proceedings (Fees) (Amendment) Order 2007

<i>Made</i> - - - -	<i>January 2007</i>
<i>Laid before Parliament</i>	<i>January 2007</i>
<i>Coming into force</i> - -	<i>1st April 2007</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 414 and 415 of the Insolvency Act 1986(a), section 663(4) of the Companies Act 1985(b) and section 133 of the Bankruptcy Act 1914(c) and with the sanction of the Treasury, makes the following Order:—

Citation and commencement

1. This Order may be cited as the Insolvency Proceedings (Fees) (Amendment) Order 2007 and shall come into force on 1st April 2007 (“the commencement date”).

Amendment to the Insolvency Proceedings (Fees) Order 2004

2.—(1) Subject to Article 4, the Insolvency Proceedings (Fees) Order 2004(d) (“the principal Order”) is amended as set out below.

(2) In article 5, for “£310”, there is substituted “£335”.

(3) In the definition of “appropriate deposit” in article 6—

(a) in paragraph (a), for “£655”, there is substituted “£670”;

(b) in paragraph (b), for “£325”, there is substituted “£335”;

(c) in paragraph (c), for “£390”, there is substituted “£400”.

(4) In article 7(1), for “£315”, there is substituted “£310”.

(5) In article 8, for “£812.50”, there is substituted “£857.50”.

(6) In the definition of “the bankruptcy ceiling” in paragraph 1(1) of Schedule 2, for paragraph (b) substitute—

(a) 1986 c.45.

(b) 1985 c.6. Section 663 of the Companies Act 1985 was repealed by section 235 of, and Part II of Schedule 10 to, the Insolvency Act 1986. By virtue of paragraph 4 of Schedule 11 to the Insolvency Act 1986, section 663(4) of the Companies Act 1985 (and orders made under it which were in force immediately prior to 29th December 1986) remains in force in relation to a winding up by the court where the winding up commenced before 29th December 1986.

(c) 1914 c.59. The Bankruptcy Act 1914 was repealed by section 235 of, and Part III of Schedule 10 to, the Insolvency Act 1986. By virtue of paragraph 10 of Schedule 11 to the Insolvency Act 1986, the Bankruptcy Act 1914 and secondary legislation thereunder which was in force immediately prior to 29th December 1986 remains in effect in relation to bankruptcy proceedings where the petition was presented before 29th December 1986.

(d) S.I. 2004/593, as amended by S.I. 2005/544 and S.I. 2006/561.

“(b) any interest payable by virtue of sections 328(4) and 329(2)(b); and”.

(7) In the Table of Fees in Schedule 2,

- (a) in respect of the fee designated as fee IVA1, for the amount of “£15” prescribed as payable on the registration of an individual voluntary arrangement by the Secretary of State, there is substituted “£10”;
- (b) in respect of the fee designated as fee B1,
 - (i) for the description of the fee and the circumstances in which it is charged, there is substituted—

“Bankruptcy – official receiver’s administration fee

For the performance by the official receiver of his general duties as official receiver on the making of a bankruptcy order, including his duty to investigate and report upon the affairs of bankrupts, there shall be payable a fee of —”, and

- (ii) for “£1,625” prescribed as the amount of that fee, there is substituted “£1,715”;
- (c) in respect of the fee designated as fee W1,
 - (i) for the description of the fee and the circumstances in which it is charged, there is substituted —

“Winding up by the court — official receiver’s administration fee

For the performance by the official receiver of his general duties as official receiver on the making of a winding-up order, including his duty to investigate and report upon the affairs of bodies in liquidation, there shall be payable a fee of —“, and

- (ii) for “1,950” prescribed as the amount of that fee, there is substituted £2,090”.

Revocations and consequential amendments

3.—(1) Subject to article 4(10),

- (a) the fee Orders listed in the Schedule to this Order are revoked to the extent set out in that Schedule;
- (b) in Schedule 1 to the principal order, all entries relating to the fee Orders listed in the Schedule to this Order, are hereby revoked; and
- (c) articles 3, 4 and 5 of the Insolvency Proceedings (Fees) (Amendment) Order 2006(a) are hereby revoked.

Transitional provisions

4.—(1) The amendments made by articles 2 and 3 of this order shall apply as set out below.

(2) The amendment made by article 2(2) shall only apply to reports submitted to the court in respect of debtors’ petitions presented on or after the commencement date.

(3) The amendments made by subparagraphs (a), (b) and (c) of article 2(3), increasing the fees prescribed by article 6 of the principal Order, shall only apply to petitions presented on or after the commencement date.

(4) The amendment made by article 2(4), reducing the fee prescribed by article 7(1) of the principal Order, shall only apply to notifications sent to the official receiver on or after the commencement date.

(5) The amendment made by article 2(5), describing the level to which the official receiver’s administration fee B1 is to be reduced where proposals made by a bankrupt for an individual

(a) S.I. 2006/561.

voluntary arrangement are approved by the bankrupt's creditors, shall only apply to those cases in which the bankruptcy order relating to the bankrupt was made on or after the commencement date.

(6) The amendment made by article 2(6) to the definition of "the bankruptcy ceiling" shall only apply in respect of bankruptcy orders made on or after the commencement date.

(7) The amendment made by article 2(7)(a), reducing the fee designated as fee IVA1, shall only apply to a voluntary arrangement under Part VIII of the Insolvency Act 1986 in respect of which information required to be submitted to the Secretary of State by virtue of Part 5 of the Insolvency Rules 1986(a) is first submitted in relation to that arrangement on or after the commencement date.

(8) The amendment made by article 2(7)(b) shall only apply in respect of bankruptcy orders made on or after the commencement date.

(9) The amendment made by article 2(7)(c) shall only apply in respect of winding-up orders made on or after the commencement date.

(10) The revocations made by article 3 take effect save as respects any fee or percentage due or payable before the commencement date under the Orders or entries referred to.

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We concur

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Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 1986/1925, as amended by S.I.1987/1919, 1989/397, 1991/495, 1993/602, 1995/586, 1991/359, 1999/1022, 2001/763, 2002/1307, 2002/2712, 2003/1730, 2004/584, 2004/1070, 2005/527 and 2006/1272.

SCHEDULE

Revocations

Article 3

Reference	Extent of revocation
The Bankruptcy Fees Order 1984(a)	The whole Order
The Companies (Department of Trade and Industry) Fees Order 1985(b)	The whole Order
The Insolvency Fees Order 1986(c)	The whole Order is revoked also in relation to any case where a winding-up or bankruptcy order was made under the Insolvency Act 1986 before 1st April 2004.

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- (a) 1984/880, as amended by S.I.1985/1783, 1990/559, and 1991/494, was partly revoked by S.I. 2004/593 subject to savings in respect of Fee 13 in Table B in the Schedule thereto, to which amendments were made by S.I. 2006/561
- (b) S.I. 1985/1784, as amended by S.I.1990/559 and S.I. 1991/494, was partly revoked by S.I. 2004/593 subject to savings in respect of Fee 3 in the Schedule thereto, to which amendments were made by S.I. 2006/561.
- (c) S.I. 1986/2030, as amended by S.I. 1988/95, 1990/560, 1991/496, 1992/34, 1994/2541 and 2001/761, was revoked in its entirety by S.I. 2004/593, except for savings in respect of Fee 10 in Part 1, and Fee 13 in Part 2, of the Schedule to that Order, which continued to apply to certain cases.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the Insolvency Proceedings (Fees) Order 2004 (S.I. 2004/593) (“the principal Order”). It also revokes the Bankruptcy Fees Order 1984 (S.I. 1984/880, as amended), the Companies (Department of Trade and Industry) Fees Order 1985 (S.I. 1985/1784, as amended) and the Insolvency Fees Order 1986 (S.I. 1986/2030, as amended) (“the old fees Orders”), which Orders were partly revoked by the principal Order, except for savings in respect of certain fees and certain cases. In the case of the Bankruptcy Fees Order 1984 and the Companies (Department of Trade and Industry) Fees Order 1985, the saved fees continued to be applicable to cases that were commenced under the earlier Bankruptcy Act 1914 (c.59) or the Companies Act 1985 (c.6) before 29th December 1986. In the case of the Insolvency Fees Order 1986, the saved fees continued to be applicable to cases that were commenced under the later Insolvency Act 1986 (c.45) after 29th December 1986 but in respect of which a winding-up or bankruptcy order was made before 1st April 2004 (“the old cases”).

As a consequence of the increase in the deposit (see below) payable in respect of a bankruptcy petition presented under section 264(1) of the Insolvency Act 1986, article 2(2) of the Order increases to an equivalent amount the fee to be paid to an insolvency practitioner appointed by the court under section 273(2) of that Act to prepare a report under section 274 of that Act.

Article 2(3) increases the amount of the various deposits payable pursuant to article 6 of the principal Order.

Article 2(4) reduces the deposit payable under article 7(1) of the principal Order in connection with the registration of a voluntary arrangement and the performance by the official receiver of the functions of nominee in relation to such an arrangement.

As a consequence of the increase in Fee B1 (see below), article 2(5) amends article 8 of the principal Order, which makes provision for the reduction of that fee upon the approval of an individual voluntary arrangement. Since the fee is increased from £1,625 to £1,715, the reduced fee is itself increased from £812.50 to £857.50.

Article 2(6) amends the definition of the bankruptcy ceiling in paragraph 1(1) of Schedule 2 to the principal Order by requiring the inclusion, in the calculation of that ceiling, of the interest payable under section 329(2)(b) of the Insolvency Act 1986 in respect of bankruptcy debts owed in respect of credit provided by a person who was a spouse or civil partner of the bankrupt at the commencement of the bankruptcy.

Article 2(7) makes various amendments to the Table of Fees in Schedule 2 to the principal Order. It reduces the fee currently payable to the Secretary of State to register an individual voluntary arrangement, fee IVA1, from £15 to £10. It also increases the fees designated as Fee B1 and Fee W1, payable in respect of the official receiver’s general duties on the making of a bankruptcy or winding-up order, including his duty to investigate and report upon the affairs of bankrupts and of bodies in liquidation, from £1,625 to £1,715 in bankruptcies, and from £1,950 to £2,090 in winding ups.

Article 3 makes provision for the revocation of the old fees Orders referred to above and also makes consequential amendments to the principal Order and the Insolvency Proceedings (Fees) (Amendment) Order 2006 (S.I.2006/561). The effect of the revocations is that the fees required to be paid in respect of old cases for the performance by the Secretary of State of his general duties fixed by reference to a percentage of an amount paid into the Insolvency Services Account by trustees, liquidators or the official receiver, will be abolished on the commencement date. This means that no fees will apply to such old cases except for the fee that must accompany every request for the purchase of any government securities made by a trustee in bankruptcy under the Bankruptcy Act 1914, or by a liquidator under the Companies Act 1985, as is continued to be expressly provided for by article 4(4) of the principal Order.

Article 4 contains transitional provisions.

No regulatory impact assessment has been prepared for this Order.