STATUTORY INSTRUMENTS

2016 No. 1048

INSOLVENCY, SCOTLAND

FEES

The Disqualified Directors Compensation Orders (Fees) (Scotland) Order 2016

Made - - - -	*1st November 2016*
Laid before Parliament	*3rd November 2016*
Coming into force - -	*30th November 2016*

The Secretary of State, with the sanction of the Treasury, makes the following Order in exercise of the power conferred by section 414(1)(b) of the Insolvency Act 1986(**a**), read in conjunction with section 21(2) of the Company Directors Disqualification Act 1986(**b**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Disqualified Directors Compensation Orders (Fees) (Scotland) Order 2016 and comes into force on 30th November 2016.

(2) In this Order—

"compensation order" means a court order under section 15A(1)(**c**) of the Company Directors Disqualification Act 1986; and

"compensation undertaking" means an undertaking accepted by the Secretary of State under section 15A(2) of the Company Directors Disqualification Act 1986.

Application

2. This Order applies in relation to—

(a) compensation orders made by the courts in Scotland; and

(b) compensation undertakings accepted in cases where the courts in Scotland would have had jurisdiction to make a compensation order.

Fees payable in connection with compensation orders and compensation undertakings

3.—(1) The Secretary of State is to be paid a fee for performing the function of distributing to a creditor an amount received by the Secretary of State in respect of a compensation order or a compensation undertaking to which this Order applies.

(**a**) 1986 c.45.

(**b**) 1986 c.46; section 21(2) was amended by the Small Business, Enterprise and Employment Act 2015 (c.26), Schedule 7, paragraph 16.

(**c**) Section 15A was inserted by the Small Business, Enterprise and Employment Act 2015, section 110.

(2) The fee is to be paid out of the amount received before such a distribution is made to a creditor.

(3) The fee means the aggregate of—

(a) the time spent by the appropriate officials carrying out the Secretary of State's function under paragraph (1) in relation to all creditors specified in a compensation order or a compensation undertaking, multiplied by the hourly rate in accordance with the table in the Schedule; and

(b) any necessary disbursements or expenses properly incurred in carrying out that function,

divided equally between the total number of creditors specified in the compensation order or the compensation undertaking.

Value Added Tax

4. Where Value Added Tax is chargeable in respect of the provision of a service for which a fee is payable by virtue of this Order, the amount of the Value Added Tax must be paid in addition to the fee.

Signed by authority of the Secretary of State

Margot James
Parliamentary Under Secretary of State
1st November 2016 Department for Business, Energy and Industrial Strategy

We concur

Stephen Barclay
Guto Bebb
31st October 2016 Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Article 3

Hourly rates for Secretary of State's fee

Grade according to the Insolvency Service grading structure	**Total hourly rate £**
D2/Section Head	69
C2/Deputy Section Head	58
C1/Senior Examiner	52
L3/Examiner	46
L2/Examiner	40
B2/Administrator	43
L1/Examiner	38
B1/Administrator	42
A2/Administrator	36
A1/Administrator	31

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in Scotland for charging fees for the function of distributing sums paid to the Secretary of State under compensation orders and undertakings for the benefit of creditors. The ability for the Secretary of State to apply for compensation orders to be made against, and to accept compensation undertakings from, disqualified directors under section 15A of the Company Directors Disqualification Act 1986 (c.46) was introduced by section 110 of the Small Business, Enterprise and Employment Act 2015 (c.26) which came fully into force on 1st October 2015.

Pursuant to Article 3, the fee is to be satisfied out of the sum to be paid to a creditor in respect of the compensation order or undertaking. Its amount is to be calculated on the basis of the hourly rates set out in the Schedule and any necessary disbursements or expenses properly incurred.

Article 4 sets out when Value Added Tax must also be applied.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. An explanatory memorandum is published alongside this instrument at www.legislation.gov.uk.

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