**EXPLANATORY MEMORANDUM TO**

**THE INSOLVENCY PRACTITONERS AND INSOLVENCY SERVICES ACCOUNT (FEES) (AMENDMENT) ORDER 2024**

**2024 No. 725**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

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

## 2. Declaration

2.1 Kevin Hollinrake, Minister of State at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Angela Crossley, Director for Strategy Policy and Analysis, at the Insolvency Service confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Agnes Janowicz at the Insolvency Service, Telephone: 0300 304 5566 or email: IPRegulation.Section@insolvency.gov.uk can be contacted with any queries regarding the instrument.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 The Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) Order 2024 ("the Order") amends The Insolvency Practitioners and Insolvency Services Account (Fees) Order 2003 S.I. 2003/3363 ("the Principal Order").

4.2 The Order increases the annual fee paid by each Recognised Professional Body (RPB) to the Secretary of State from £470 to £610 per licensed Insolvency Practitioner it regulates. The new annual fee applies to calendar years from 1 January 2025.

***Where does the legislation extend to, and apply?***

4.3 The extent of the Order (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

## 5. Policy Context

***What is being done and why?***

5.1 The Secretary of State is the oversight regulator of the insolvency profession by overseeing RPBs, which in turn licence and directly regulate Insolvency Practitioners. The Insolvency Service acts on behalf of the Secretary of State in this capacity.

5.2 The costs of the Secretary of State undertaking this work are covered by fees charged to RPBs, who in turn pass those costs on to Insolvency Practitioners they licence. The fee is calculated by reference to the number of members authorised to act as Insolvency Practitioners as at 1 January in each calendar year.

5.3 In September 2023, the Government published its response to the consultation on the Future of Insolvency Regulation[1]. This announced the Government's objective to increase the quality and consistency of regulation within the existing regulatory framework, as an alternative to introducing a single regulator, which the consultation originally proposed.

5.4 The current fee of £470 per Insolvency Practitioner was set in 2019 when there were 1565 Insolvency Practitioners. This number has fallen to 1508 as of January 2024 and with inflation of 23% over the past five years, the existing fee no longer covers the cost of regulation.

***What was the previous policy, how is this different?***

5.5 The policy around funding oversight regulation remains unchanged. However, the annual fee charged to RPBs, calculated by reference to the number of Insolvency Practitioners it regulates, was last increased from £360 to £470 in 2019 by The Insolvency Practitioners and Insolvency Services Account (Fees) (Amendment) Order 2019.

5.6 A decline in the number of Insolvency Practitioners since 2019 means that a purely inflationary increase would not be sufficient to cover the costs of the core regulatory functions.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 The Order amends the Principal Order to increase the fee that is charged to RPBs to cover the cost of delivering oversight regulation of the insolvency profession, in line with the guidance contained in HM Treasury's Managing Public Money.

***Why was this approach taken to change the law?***

6.2 This is the only possible approach to make the necessary changes. The annual fee charged to RPBs is prescribed in the Principal Order, and the amendments contained in the Order are required to increase that fee. No further changes are imposed on the existing framework.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 As is customary for fee changes of this nature, no separate consultation has been undertaken. However, engagement has been undertaken with those affected by the change.

[1]Government's response to the consultation on The Future of Insolvency Regulation https://www.gov.uk/government/consultations/the-future-of-insolvency-regulation/outcome/the-future-of-insolvency-regulation-government-response

## 8. Applicable Guidance

8.1 Guidance will be publicly available to all interested parties via the Insolvency Service's website. RPBs have been notified of the planned changes to the fee level and will receive a separate notification once the instrument has been laid.

## Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it relates to varying a fee, which is excluded from the definition of regulatory provisions in line with Better Regulation requirements.

***Impact on businesses, charities and voluntary bodies***

9.2 The impact on business is that the fee that is charged directly to the RPBs is subsequently passed on to the individual Insolvency Practitioners they authorise. There is no impact on charities and voluntary bodies.

9.3 The legislation does impact small or micro businesses. R3, the Association of Business Recovery Professionals which represents 97% of Insolvency Practitioners, has previously estimated that 46% of its members can be classified as small and micro businesses.

9.4 However, the fee is charged to RPBs by reference to the number of Insolvency Practitioners they licence, and RPBs in turn pass the costs on to those licensed Insolvency Practitioners. It is not directly charged to Insolvency Practitioners or by reference to the size of the individual practitioner's business.

9.5 The proposed changes to the fee would see total costs across all insolvency businesses increase by circa £155,000 per year compared to the current level. Based on the current number of Insolvency Practitioners, this would be an increase per Insolvency Practitioner per year of circa £140. Based on that information, the estimated increased total cost to all small and micro businesses active in this sector per year is circa £71,362.

9.6 The impact on the public sector is that the increased fee will accurately reflect the costs of the Insolvency Service carrying out its oversight regulatory functions.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is that the fees will continue to be subject to a review on an annual basis and the legislation may be further amended to achieve full cost recovery in line with HM Treasury's Managing Public Money principles.

10.2 The instrument does not include a statutory review clause.

## Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 The amount of the increase to the relevant fee, which is given effect by this Order, is higher than the cost of inflation. This is owing to a slight decline in the number of active Insolvency Practitioners since 2019 and a further expected decrease in practitioner population in 2025.

## 12. European Convention on Human Rights

12.1 As the instrument is not subject to further parliamentary procedure and does not amend primary legislation, no statement is required.

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).