STATUTORY INSTRUMENTS

2006 No. 561

INSOLVENCY, ENGLAND AND WALES

FEES

The Insolvency Proceedings (Fees) (Amendment) Order 2006

Made - - - -	*2nd March 2006*
Laid before Parliament	*6th March 2006*
Coming into force - -	*1st April 2006*

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 2006 and shall come into force on 1st April 2006 ("the commencement date").

Amendments to the Insolvency Proceedings (Fees) Order 2004

2.—(1) Subject to article 6, the Insolvency Proceedings (Fees) Order 2004(**d**) ("the principal Order"), shall be amended as set out below.

(2) In the definition of appropriate deposit in article 6—

(a) in paragraph (a), for "£620", there is substituted "£655";

(b) in paragraph (b), for "£310", there is substituted "£325"; and

(c) in paragraph (c), for "£370", there is substituted "£390".

(3) In article 7(1), for "£335", there is substituted "£315".

(4) In the Table of Fees in Schedule 2, in respect of the fee designated as fee IVA1, for the amount of "£35" prescribed as payable on the registration of an individual voluntary arrangement by the Secretary of State, there is substituted "£15".

(**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 Section 663 of the Companies Act 1985 was repealed by section 235 of, and Part II of Schedule 10 to, the Insolvency Act 1985. 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 The Bankruptcy Act 1914 was repealed by section 235 of, and Part III of Schedule 10 to, the Insolvency Act 1985. By virtue of paragraph 10 of Schedule 11 to the Insolvency Act 1986, the Bankruptcy Act 1914 and secondary legislation made thereunder which was in force immediately prior to the 29th December 1986 remain in effect in relation to bankruptcy proceedings where the petition was presented before 29th December 1986.

(**d**) S.I. 2004/593, amended by S.I. 2005/544.

Amendments to the continuing application of the Insolvency Fees Order 1986

3. —(1) Article 3 of, and the entry in Schedule 1 to the principal Order, revoking the Insolvency Fees Order 1986(**a**) ("the 1986 Order") to the extent set out in that Schedule, shall be read subject to paragraphs (2) and (3).

(2) In relation to a winding up to which the 1986 Order continues to apply by virtue of the provisions of the principal Order referred to in paragraph (1), paragraphs (iii) to (viii) shown in relation to Fee No. 10 in Part 1 of the Schedule to the 1986 Order shall cease to have effect in relation to any payments into the Insolvency Services Account made on or after the commencement date.

(3) In relation to a bankruptcy to which the 1986 Order continues to apply by virtue of the provisions of the principal Order referred to in paragraph (1), paragraphs (c) to (h) shown in relation to Fee No. 13 in Part 2 of the Schedule to the 1986 Order shall cease to have effect in relation to any payments into the Insolvency Services Account made on or after the commencement date.

Amendment to the Companies (Department of Trade and Industry) Fees Order 1985

4. The Companies (Department of Trade and Industry) Fees Order 1985(**b**) shall be amended by omitting paragraphs (c) to (f) shown in relation to Fee No. 3 in the Schedule to that Order.

Amendment to the Bankruptcy Fees Order 1984

5. The Bankruptcy Fees Order 1984(**c**) shall be amended by omitting paragraphs (c) to (f) shown in relation to Fee No. 13 in Table B of the Schedule to that Order.

Transitional provisions

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

(2) The amendment made by article 2(3) of this Order, 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.

(3) The amendment in respect of fee IVA1 made by Article 2(4) shall 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(**d**) is first submitted in relation to that arrangement on or after the commencement date.

1st March 2006 *Falconer of Thoroton, C*

We concur

Gillian Merron
Tom Watson
Two of the Lords Commissioners
2nd March 2006 of Her Majesty's Treasury

(**a**) S.I. 2001/761, was revoked by S.I. 2004/593 subject to savings in respect of Fee 10 and Fee 13 in the Schedule thereto.
(**b**) S.I. 1985/1784, amended by S.I. 1990/559 and S.I. 1991/494, was revoked by S.I. 2004/593 subject to savings in respect of Fee 3 in the Schedule thereto.
(**c**) S.I. 1984/880, as amended by S.I. 1985/1783, S.I. 1990/559 and S.I. 1991/494, was revoked by S.I. 2004/593 subject to savings in respect of Fee 13 in Table B.
(**d**) S.I.1986/1925 amended by S.I. 1987/1919, 1989/397, 1991/495, 1993/602, 1995/586, 1999/359, 1999/1022, 2001/763, 2002/1307, 2002/2712, 2003/1730, 2004/584, 2004/1070 and 2005/527.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further amendments to the Insolvency Proceedings (Fees) Order 2004 (S.I. 2004/593) ("the 2004 Order").

Article 2(2) of this Order increases the amount of the various deposits payable pursuant to article 6 of the 2004 Order. Article 2(3) reduces the deposit payable under article 7(1) of the 2004 Order in connection with the registration of an individual voluntary arrangement and the performance by the official receiver of the functions of nominee in relation to such an arrangement. The Table of Fees in Schedule 2 to the 2004 Order is amended by article 2(4) of this Order so as to reduce the fee currently payable to the Secretary of State to register an individual voluntary arrangement, fee IVA1, from £35 to £15. These amendments are subject to the transitional provisions in Article 6.

This Order also makes provision with respect to 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) which Orders were largely revoked by the 2004 Order. In the case of the Bankruptcy Fees Order 1984 and the Companies (Department of Trade and Industry) Fees Order 1985, certain fees continue to be applicable to cases that were commenced before 29th December 1986 under legislation which preceded the Insolvency Act 1986 (c.45). In the case of the Insolvency Fees Order 1986, certain fees are applicable to cases that were commenced after 29th December 1986 under the Insolvency Act 1986 but in respect of which a winding up or bankruptcy order was made before 1st April 2004 ("old cases"). The fees that continue to apply to the old cases are 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.

The effect of the amendments made by articles 3, 4 and 5 of this Order is as follows—

(a) no fees are payable after the commencement date in any case where £100,000 or more has been paid into the Insolvency Services Account before the commencement date; and

(b) as regards any case where less than £100,000 has been paid into the Insolvency Services Account before the commencement date, fees are payable in relation to that proportion of payments into that account on or after the commencement date which takes the balance of sums paid into that account up to £100,000; no fees further fees are then payable.

The percentage fees that are payable in relation to the first £100,000 paid into the Insolvency Services Account in old cases are as follows:

Type of proceedings	% Fee on sums paid into the Insolvency Services Account	Provision under which fee charged
Bankruptcy where the bankruptcy petition was presented on or before the 29th December 1986	10% of the first £50,000 7.50% of the next £50,000	Fee 13 in Table B in the Schedule to the Bankruptcy Fees Order 1984 (as amended)
Bankruptcy where the bankruptcy order was made before 1st April 2004	15% of the first £50,000 11.25% of the next £50,000	Fee 13 in Part 2 of the Schedule to the Insolvency Fees Order 1986 (as amended)
Compulsory winding up where the petition was presented on or before 29th December 1986	10% of the first £50,000 7.50% of the next £50,000	Fee 3 in the Schedule to the Department of Trade and Industry Fees Order 1985 (as amended)

Compulsory winding up where the winding-up order was made before 1st April 2004	15% of the first £50,000 11.25% of the next £50,000	Fee 10 in Part 1 of the Schedule to the Insolvency Fees Order 1986 (as amended)

No regulatory impact assessment has been prepared for this Order.

£3.00

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