STATUTORY INSTRUMENTS

2016 No. 692

INSOLVENCY, ENGLAND AND WALES FEES

The Insolvency Proceedings (Fees) Order 2016

Made - - - - *29th June 2016*

Laid before Parliament *30th June 2016*

Coming into force in accordance with article 1

The Lord Chancellor, in exercise of the powers conferred by sections 414 and 415 of the Insolvency Act 1986(**1**), 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) Order 2016 and comes into force twenty-one days after the day on which it is laid.

Interpretation

2. In this Order—

"the Act" means the Insolvency Act 1986(**2**);

"chargeable receipts" means the sums which are paid into the Insolvency Services Account after deducting any amounts which are paid out to secured creditors or paid out in carrying on the business of the bankrupt or the company;

"the commencement date" means the date this Order comes into force;

"deposit" means—

(a) on the making of a bankruptcy application, the sum of £550,

(b) on the presentation of a bankruptcy petition, the sum of £990,

(c) on the presentation of a winding up petition, other than a petition presented under section 124A(**3**) of the Act, the sum of £1,600,

(d) on the presentation of a winding-up petition under section 124A of the Act, the sum of £5,000;

(**1**) 1986 c.45.
(**2**) 1986 c.45.
(**3**) Section 124A was inserted by sections 60(3) of the Companies Act 1989 (c.40).

"official receiver's administration fee" means the fee payable to the official receiver on the making of a bankruptcy or winding up order out of the chargeable receipts of the estate of the bankrupt or, as the case may be, the assets of the insolvent company for the performance of the official receiver's functions under the Act.

Fees payable in connection with individual voluntary arrangements, debt relief orders and bankruptcy and winding up

3. The fees payable to the Secretary of State in respect of the matters specified in column 1 of the Table of Fees in Schedule 1 (Fees payable in insolvency proceedings) are the fees specified in column 2 to that Table.

Deposit

4.—(1) On the making of a bankruptcy application, the debtor will pay a deposit to the adjudicator as security for the payment of the official receiver's administration fee.

(2) On the presentation of a bankruptcy petition or a winding-up petition, the petitioner will pay a deposit to the court as security for the payment of the official receiver's administration fee.

(3) Where a deposit is paid to the court, the court will transmit the deposit paid to the official receiver attached to the court.

(4) The deposit will be used to discharge the official receiver's administration fee to the extent that the assets comprised in the estate of the bankrupt or, as the case may be, the assets of the company are insufficient to discharge the official receiver's administration fee.

(5) Where a bankruptcy order or a winding up order is made (including any case where a bankruptcy order or a winding up is subsequently annulled, rescinded or recalled), the deposit will be returned to the person who paid it save to the extent that the assets comprised in the estate of the bankrupt or, as the case may be, the assets of the company are insufficient to discharge the official receiver's administration fee.

(6) The deposit will be repaid to the debtor where—

(a) the adjudicator has refused to make a bankruptcy order,

(b) 14 days have elapsed from the date of delivery of the notice of refusal, and

(c) the debtor has not made a request to the adjudicator to review the decision.

(7) Where the debtor has made a request to the adjudicator to review the decision to refuse to make a bankruptcy order the deposit will be repaid to the debtor where—

(a) the adjudicator has confirmed the refusal to make a bankruptcy order,

(b) 28 days have elapsed from the date of delivery of the confirmation of the notice of refusal, and

(c) the debtor has not appealed to the court against the refusal to make a bankruptcy order.

(8) Where the debtor has appealed to the court against the refusal to make a bankruptcy order the deposit will be repaid to the debtor where the appeal is dismissed or withdrawn.

(9) Where—

(a) a deposit was paid by the petitioner to the court, and

(b) the petition is withdrawn or dismissed by the court

that deposit, less an administration fee of £50, will be repaid to the petitioner.

Value Added Tax

5. Where Value Added Tax is chargeable in respect of the provision of a service for which a fee is payable by virtue of any provision of this Order, Value Added Tax must be paid on that fee.

Revocation

6. The enactments listed in Schedule 2 are revoked.

Transitional and saving provisions

7.—(1) This Order has no effect in respect of any fees payable in respect of—

(a) the preparation and submission of a report under section 274 (action on report of insolvency practitioner) of the Act; and

(b) bankruptcy orders and winding-up orders made following the making of a bankruptcy application or presentation of a petition before the commencement date.

(2) This Order has no effect in respect of any deposit paid on the making of a bankruptcy application or the presentation of a petition for bankruptcy or winding up before the commencement date.

Signed by authority of the Lord Chancellor

Edward Faulks
Parliamentary Under Secretary of State
27th June 2016 Ministry of Justice

We concur

Charlie Elphicke
Mel Stride
Two of the Lords Commissioners of Her
29th June 2016 Majesty's Treasury