**This guidance is tailored specifically for official receivers. It is discretionary and not designed for use by third parties. This version was the most up to date guidance available to official receivers as at 11 March 2020**

# 48. Insolvency accounting and financial transactions

## Annexes



## Chapter content



# Introduction

## 48.1 Content of this chapter

This chapter contains information to assist the official receiver in understanding how the accounting systems in relation to insolvent estates operate and the legislative basis for the accounting for fees and expenses relating to the work of the official receiver.

Guidance on distributions is provided in chapter 49.

## 48.2 Abbreviations used in this chapter

The following legislative abbreviations may appear throughout this chapter:

| Abbreviation | Legislation |
|---|---|
| EA2002 | The Enterprise Act 2002 |
| FO1986 | The Insolvency Fees Order 1986 |
| FO2004 | The Insolvency Proceedings (Fees) Order 2004 |
| FO2016 | The Insolvency Proceedings (Fees) Order 2016 |
| FAO2007 | Insolvency Proceedings (Fees) (Amendment) Order 2007 |
| IA86 | The Insolvency Act 1986 |
| IR86 | The Insolvency Rules 1986 |
| IR2016 | The Insolvency (England and Wales) Rules 2016 |
| IAR2004 | The Insolvency (Amendment) Rules 2004 |
| IAR2009 | The Insolvency (Amendment) Rules 2009 |
| IAR2010 | The Insolvency (Amendment) Rules 2010 |
| IRegs 94 | The Insolvency Regulations 1994 |
| IARegs 2004 | The Insolvency (Amendment) Regulations 2004 |
| IARegs 2009 | The Insolvency (Amendment) Regulations 2009 |
| IPO94 | The Insolvent Partnerships Order 1994 |

# 48.3 Current and historical legislation governing the official receiver's fees and expenses

The fees and expenses charged in both company winding up and bankruptcy proceedings in respect of the performance by the official receiver of their functions and duties under IA86, or the performance of functions of the Secretary of State, are laid down in:

- the Insolvency Proceedings (Fees) Order 2004 where petition was presented prior to 21 July 2016
- the Insolvency Proceedings (Fees) Order 2016 where petition was presented on or after the 21 July 2016
- the Insolvency Regulations 1994
- the Insolvency Proceedings (Monetary Limits) Order 1986
- the Insolvency Practitioners and Insolvency Services Account (Fees) Order 2009

# 48.4 Application of current and previous fees orders

The Insolvency Proceedings (Fees) Order 20016 (FO2016) came into force on 21 July 2017. FO2016 revoked FO2004 and it applies to all cases where the order was made on a petition or application submitted on or after 21 July 2016.

The FO2004 revoked previous fees orders except in relation to 'saved fees' (the Secretary of State fees), which continued to be applicable to cases that were commenced under the Bankruptcy Act 1914 or the Companies Act 1985, before 29 December 1986 when the Insolvency Act 1986 came into force.

In the case of the Insolvency Fees Order 1986, the saved fees (which were the Secretary of State fees) continued to be applicable to cases that were commenced under the Insolvency Act 1986 after 29 December 1986 but in respect of which a winding-up order or bankruptcy order was made before 1 April 2004 (described as the "old cases"). All fees relating to "old cases" were abolished on 1 April 2007 following the implementation of the Insolvency Proceedings (Fees) (Amendment) Order 2007.

# 48.5 Legislation relating to the calculation of time and rate charges

Regulations 33 and 48 of the Insolvency Regulations 1994, dealing with the time and rate fee apply with reference to calculating the official receiver's remuneration.

## 48.6 Debt relief orders (DROs) - fees payable

DROs do not generate an “estate”, however fees are charged to cover administrative costs. All DRO applications are entered into an automated computer system by approved intermediaries such as the Citizen’s Advice Bureau. A successful application for a DRO requires the individual concerned to pay a fixed, non-refundable £90 fee (fee DR01), which is both an administration fee for the performance by the official receiver of their functions and payment of the costs (to a maximum of £10) of the intermediary. The fee must be received by The Insolvency Service Finance Section within 10 days of the submission of the DRO application by an intermediary; otherwise the application is automatically rejected.

# Fees payable in relation to winding-up and bankruptcy proceedings

## 48.7 Summary of fees to be paid under the Insolvency Proceedings (Fees) Order 2016 (FO2016)

The fees charged under FO2016 will only be charged in cases where a petition is presented on or after the 21 July 2016. In cases where a petition is presented before this date but an order is made on or after the 21st July 2016, the fees will be charged in accordance with the fees order in place at the time of the petition being presented For a bankruptcy or winding up order made on or after 1 April 2004 and petition presented before 21 July 2016 FO2004 applies.  No new fees are to be levied in relation to cases made on petitions presented prior to 1 April 2004.

In summary, the fees charged under FO2016 are as follows:-

| Name of fee | Current fee |
|---|---|
| Official Receiver's general fee | £6,000 |

| | |
|---|---|
| Trustee / Liquidator fee | 15% of asset value realised by the Official Receiver |
| Income Payment Agreement/Order set up fee | £150 |
| Dismissed / withdrawn petition refund fee | £50 |
| Debtor bankruptcy administration fee | £1,990 |
| Creditor bankruptcy administration fee | £2,775 |
| Company winding up administration fee | £5,000 |
| Public interest Company winding up administration fee | £7,500 |

A summary of the fees chargeable where date of petition is pre 21 July 2016 under the FO2004 (Schedule 2) (as amended) is given at Annex A. The application of these fees when dealing with partnership cases is set out in a table format at Annex B.

# 48.8 Official Receiver's administration fees

The official receiver's administration fee is 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. It is for the performance of the official receiver's functions under the IA86. This includes the duty of the official receiver to investigate and report upon the affairs of companies in liquidation and bankrupts. It does not include anything done by the official receiver:

(i) in connection with the appointment of agents for the purposes of, or in connection with, the realisation of assets or;

(ii) anything done in connection with or, for the purposes of, distributing assets to creditors;

(iii) the realisation of assets on behalf of the holder of a fixed and/or floating charge; or

(iv) the supervision of a special manager

"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.

# 48.9 Official Receiver's general fee

The official receiver's general fee is a fixed single fee of £6,000 charged to the estate on making of bankruptcy or winding up order where the date of petition or application is 21 July 2016 or later. It is for administration costs not covered by the official receiver's administration fee.

It replaced the Secretary of State's administration fee (see B2 and W2 in FO2004 schedule 2) which operated on a sliding scale related to the value of asset realisation. The current fee structure allows creditors to know the maximum amount that will be charged for a case to be administered.

# 48.10 Trustee / Liquidator fee

The trustee/liquidator fee is charged in cases where the official receiver acts as trustee or liquidator and realises assets in a case where the date of petition or application is 21 July 2016 or later. The fee is set at a level to cover the costs of undertaking this work, currently 15% of asset value realised by the Official Receiver. In practice the fee is automatically charged to the estate when EAS post the asset funds paid into the Insolvency Service Account (ISA) in Official Receiver cases. There is no maximum amount that can be charged under this fee.

# 48.11 The Income payments agreement (IPA) / Income payments order (IPO) set up fee

This fee is charged in all bankruptcy cases where an IPA or IPO is set up and the date of petition or application is 21 July 2016 or later. It is a single fixed fee of £150 and covers the specific costs incurred by the official receiver of arranging and setting up the IPA / IPO and will be collected from the first payments made by the debtor into the arrangement.

This fee will only be charged once on a case. If a debtor defaults on their payments under an IPA, and the official receiver makes application to Court to enforce payments via an IPO, in these circumstances no further fee will be payable.

# 48.12 The dismissed /withdrawn petition refund fee

A single fee of £50 applies to cover the costs of the official receiver's administration work when the petition is withdrawn or dismissed by the court and the deposit paid on petition, less this fee, is refunded back to the petitioner.

# 48.13 Secretary of State Fee (Fees W2 and B2) - Insolvency order dated 1 April 2004 to 31 March 2005

For all insolvency cases for the performance of general duties under the insolvency legislation in relation to the administration of the estate of each company or bankruptcy by the Secretary of State, there is a fee payable, limited to a maximum of £80,000. This is calculated as a percentage of total chargeable receipts relating to the company or bankruptcy (fee W2 and B2).

For chargeable receipts dated on or after 6 April 2009 where the insolvency order date is 1 April 2004 to 31 March 2005 (company and bankruptcy cases) the Secretary of State fee no longer applies.

# 48.14 Secretary of State Fee (Fees W2 and B2) - Insolvency order date on or after 1 April 2005 but before 6 April 2010

For all insolvency cases for the performance of general duties under the insolvency legislation in relation to the administration of the estate of each company or bankruptcy by the Secretary of State, there is a fee payable, currently limited to a maximum of £80,000. This is calculated as a percentage of total chargeable receipts relating to the company or bankruptcy (fee W2 and B2).

For both company and bankruptcy cases where the insolvency order date is after 1 April 2005 but before 6 April 2010, the first £2,000 of chargeable receipts is not subject to the Secretary of State fee (0% applies) and the rate to be charged for chargeable receipts above this amount is 17%.

# 48.15 Secretary of State Fee (Fees W2 and B2) – where the insolvency order date is on or after 6 April 2010 and before 16 November 2015

In cases where the insolvency order date is on or after 6 April 2010 and before 16 November 2015, the Secretary of State fee for the administration of the estate is also payable as for pre 6 April 2010 cases, but it is calculated at different rates as a percentage of total chargeable receipts, depending on the amount of those chargeable receipts, as follows:

(a) Company cases (Fee W2)

- first £2,500 of chargeable receipts - not subject to the Secretary of State fee (0% fee applies)
- next £1,700 of chargeable receipts - 100% fee applies
- next £1,500 of chargeable receipts – 75% fee applies
- next £396,000 of chargeable receipts – 15% fee applies
- remaining amount of chargeable receipts - 1% fee applies (to a maximum total fee of £80,000)

(b) Bankruptcy cases (Fee B2)

- first £2,000 of chargeable receipts - not subject to the Secretary of State fee (0% fee applies)
- next £1,700 of chargeable receipts - 100% fee applies
- next £1,500 of chargeable receipts - 75% fee applies
- next £396,000 of chargeable receipts – 15% fee applies
- remaining amount of chargeable receipts - 1% fee applies (to a maximum total fee of £80,000)

# 48.16 Secretary of State Fee (Fees W2 and B2) – where the insolvency order date is on or after 16 November 2015 and presentation of bankruptcy or winding up petition is before 21 July 2016

In cases where the insolvency order date is 16 November 2015 or later and the bankruptcy or winding up petition is presented before 21 July 2016, the Secretary of State fee for the administration of the estate is also payable as for 6 April 2010 cases, but it is calculated at different rates as a percentage of total chargeable receipts, as follows:-

(a) Company cases (Fee W2)

- first £2,500 of chargeable receipts - not subject to the Secretary of State fee (0% fee applies).
- next £1,700 of chargeable receipts - 75% fee applies.
- next £1,500 of chargeable receipts – 50% fee applies.
- next £396,000 of chargeable receipts – 15% fee applies.
- remaining amount of chargeable receipts - 1% fee applies (to a maximum total fee of £80,000)

(b) Bankruptcy cases (Fee B2)

- first £2,000 of chargeable receipts - not subject to the Secretary of State fee (0% fee applies).
- next £1,700 of chargeable receipts - 75% fee applies.
- next £1,500 of chargeable receipts - 50% fee applies.
- next £396,000 of chargeable receipts – 15% fee applies.
- remaining amount of chargeable receipts - 1% fee applies (to a maximum total fee of £80,000)

# 48.17 Bankruptcy ceiling – where bankruptcy petition presented before 21 July 2016

In addition to the percentage and maximum amount restrictions on charging the Secretary of State fee in bankruptcy estates only no Secretary of State fee is charged on that part of the total receipts which exceeds the bankruptcy ceiling. The Secretary of State fee and bankruptcy ceiling does not apply in cases where bankruptcy petition is presented on or after 21 July 2016. The FO2004 describes the bankruptcy ceiling as the sum arrived at by adding together:

- the bankruptcy debts required to be paid under the Rules;
- any interest payable by virtue of section 328(4); and
- the expenses of the bankruptcy as set out in rule 6.224) other than;
- any sums spent out of money received in carrying on the business of the bankrupt; and
- fee B2 (the Secretary of State fee)

Existing fees charged properly should remain as charged.

Where known creditors have not proved their debts and therefore it is not possible to pay all debts listed in the bankruptcy, there is authority[1] to the effect that for the purposes of section 330(5), creditors means creditors who have proved in the bankruptcy. Where creditors remain unproved and the trustee is calculating the bankruptcy ceiling, the trustee is permitted to include only the proved creditors and the statutory interest paid to them as the bankruptcy debts required to be paid under the Rules.

1. Re Ward, Ex parte Hammond and Son v The Official Receiver and the Debtor [1942] Ch 294)

# 48.18 Official receiver's remuneration (Time and Rate Fee)

Regulation 35 of the IRegs 1994 provides that the official receiver is entitled to remuneration calculated in accordance with the applicable hourly rate for services provided by themselves in relation to:

- a distribution made by themselves when acting as liquidator or trustee to creditors (including preferential or secured creditors or both such classes of creditors);
- the realisation of assets on behalf of the holder or a fixed or floating charge or both types of those charges;
- the supervision of a special manager;
- the performance by themselves of any functions where they act as provisional liquidator; or
- the performance by themselves of any functions where they acts as an interim receiver

In other words, where the official receiver makes a distribution or performs a task for which there is no fee applicable, they should charge the time and rate fee for their remuneration. The time spent in carrying out the duty should be recorded and the fee is based on an hourly rate depending on the number of creditors and the expected time spent by each grade, using the appropriate tables as detailed in the legislation.

## 48.19 VAT payable on fees

Where VAT is chargeable in respect of a service for which a fee is prescribed by virtue of the provisions of the FO2004, VAT is payable in addition to that fee, e.g. VAT is chargeable on the time and rate fee charged when making a distribution to creditors. The VAT must be charged regardless of whether the estate is registered for VAT[1]. No VAT is charged on the administration fee or where time and rate is used to calculate the reduced administration fee.

1. Insolvency Proceedings (Fees) Order 2004, article 9

# Which costs are covered by the administration fee and which are paid by the estate?

## 48.20 Official receiver's (non asset recovery) actions covered by the administration fee

Costs for work carried out by the official receiver which relates to their duties as official receiver (for example enquiries into the insolvent's affairs to support an investigation or the compilation of the report to creditors) are covered by the administration fee, regardless of whether the official receiver does it directly

themselves or if they instruct someone else to carry out the work on their behalf. It follows therefore that if there are any expenses incurred by the official receiver in undertaking the work covered by the administration fee they should not be charged to the insolvency estate but should be paid from the Vote account, where the administration fee income is cumulatively held, in effect.

## 48.21 Costs incurred in realising assets

Costs incurred by the official receiver as trustee or liquidator in respect of the protection and realisation of assets are charged to the estate as disbursements. This does not include any time and rate costs which are not charged in practice.

## 48.22 Treatment of disbursements

The following table summarises the treatment of disbursements in official receiver's insolvency cases post 1 April 2004:

| Description of disbursement | Administration fee applicable? | Charge to estate? |
|---|---|---|
| Advertisement (for everything except a distribution) | Yes | No |
| Advertisement for distributions | No | Yes |
| Gazette Notice (other than provisional liquidations and dividends) | Yes | No |
| Gazette Notice (provisional liquidations and dividends) | No | Yes |
| Court fees – relating to the official receiver's general duties | Yes | No |
| Court fees – relating to trustee functions | No | Yes |

| | | |
|---|---|---|
| Land Registry search fees | Yes | No |
| Land Registry – Form J restrictions | Yes | No |
| Redirection of mail | Yes | No |
| Travel and subsistence (non asset related) | Yes | No |
| Travel and subsistence (asset related) | No | Yes |
| Collection of books and records | Yes | No |
| Experian searches | Yes | No |
| Insurance | No | Yes |

# 48.23 Payments of advertising costs (non-Gazette)

The Insolvency Service has a SLA with Tribal, as its agent responsible for dealing with the issue of all statutory advertising carried out by the official receiver, for publication where newspaper advertising is required.

Tribal raises invoices for the adverts placed, only after it has received proof of publication of the advertisement, which will generally be within 21 days of publication.

Payment of these invoices is dealt with by direct payment, administered centrally.

The cost of an advertisement is covered by the administration fee except for advertisements relating to distributions and where required need to be charged to the estate.

# 48.24 Gazette Notices post 6 April 2009

Payment of the invoices relating to Gazette notices are dealt with centrally. The exceptions to this are the payment of Gazette notices relating to provisional liquidations and dividends, which will be dealt with separately by Public Interest Units and the National Dividends Units respectively, as the costs of these notices are not part of the administration fee.

# 48.25 Court fees payable by the official receiver

The administration fee covers applications that relate to the performance by the official receiver of his general duties as official receiver on the making of a bankruptcy order or a winding-up order. In the majority of applications in this category however no fee will arise as no fee is payable on a request or on an application to the court (County Court or High Court) by the official receiver, when applying only in the capacity of official receiver to the case (and not as liquidator or trustee)[1].

The administration fee will not cover applications that are associated with the realisation of assets, where the official receiver is likely to be making application as liquidator or trustee (e.g. an IPO application).

1. Civil Proceedings (Fees) Order 2008, schedule 1, paragraph 1(3)

# 48.26 Land Registry charges

HM Land Registry fees are paid by the Service through a variable direct debit. The fees will be added to the variable direct debit (VDD) automatically where the Land Registry Portal is used but where a paper based application is made (for example an RX1) the option to pay through a “direct debit, under an agreement with Land Registry” should be selected. It is important that the Service’s key number is entered correctly on the form. The key number can be found in the template RX1.

As the lodging of a Form J restriction is related to the realisation of assets, the cost of obtaining the restriction is not covered by the administration fee and should therefore be charged against the estate. EAS will check the invoices from the Land Registry and arrange for them to be paid. It is very important that staff use a reference that refers to the office making the application and the particular case to which the application relates in the format “BKT Number-Office” e.g. BKT00000001-LTADT. If the Form being used forms part of a joint application the reference should be prefixed with the letters “JNT”.

When assigning the payments EAS will charge general searches to the administration fee and Form J restrictions to the estate. If you complete a transaction that needs to be allocated in an alternative manner, please contact EAS.Enquiries.

# 48.27 Travel and subsistence

A travel and subsistence claim relating to the protection of assets (a trading inspection) is not payable from the administration fee and should be paid by the

estate.  If, however, the inspection was also for the purpose of collecting or protecting accounting records in relation to a possible investigation, it may be necessary to apportion the cost between the estate account and the Vote account.

A claim entirely in connection with enforcement to cooperate or further investigation work would be covered by the administration fee and should be paid from the Vote account.

## 48.28 Apportioning costs where agents recover assets and accounting records on behalf of the official receiver

Where an agent is employed by the official receiver to recover assets, they will usually account to the official receiver for the proceeds of the assets they hav recovered net of their fees and expenses, as a direct cost to the estate account.

Where the official receiver has instructed their agent to recover accounting books and records, the cost of this activity is covered under the official receiver's administration fee.

Where the agent has been instructed to recover both assets and records on behalf of the official receiver, they should be asked to identify in their invoice which costs relate to which activity, to enable the official receiver to apportion the expenses accordingly.

## 48.29 Public Interest Unit (PIU) cases

Where an order appointing a provisional liquidator/interim receiver has been made, any disbursements up to the date of the winding-up order or bankruptcy order are charged to the estate. The decision on whether further disbursements on a PIU case should be charged to the estate will be determined on exactly the same basis as any other insolvency case which the official receiver administers – as set out in paragraphs above.

# Fees on recall, rescission, stay or annulment of insolvency proceedings

# 48.30 Full administration and general fees to be charged unless annulment on the grounds of 'ought not to have been made'

The legislation does not allow any discretion over whether the administration and general fees are charged. Consequently, where an annulment is on the grounds that the debts are paid in full or following the agreement of an IVA, both fees should be paid in full before the official receiver can agree to the annulment.

If the annulment is on the grounds that the order ought not to have been made the official receiver should instead ask for costs based on actual disbursements and a fee based on a time and rate calculation (limited to the maximum administration fee). In these cases an annulment order will have a similar effect as if the bankruptcy order had been cancelled and therefore the application of the statutory fees order will not be brought into effect.

# 48.31 Seeking official receiver's costs where annulment occurs without notice

Where a (former) bankrupt has failed to follow proper procedure in making an annulment application, for example, by not advising the official receiver of the hearing thereby denying the official receiver the opportunity to seek their costs in the proceedings, the official receiver may seek a review of the annulment order. Unless the petition has been adjourned and not dismissed, following annulment the bankruptcy proceedings are in effect "closed" as far as the court is concerned, which means it will not be possible to make an application for a costs order, unless an application is made to court to review the annulment order.

The official receiver should also consider the following options to recover costs and fees in the proceedings:

- using the petition deposit to discharge the outstanding fees, to the extent that assets recovered are not sufficient
- where funds are held from the realisation of assets these could be retained to recover the official receiver's costs
- writing to the (former) bankrupt to seek payment of costs, informing them that if agreement cannot be reached, the official receiver will seek a review of the annulment and this could result in the individual being declared bankrupt again

# Expenses in insolvency proceedings

## 48.32 Payment of expenses or costs from the insolvent estate assets

In liquidation proceedings any fees, costs, charges and other expenses incurred in the course of the liquidation are to be regarded as expenses of the liquidation and are payable out of the assets of the company (including property comprised in or subject to a floating charge), prior to any distribution to creditors or contributories. In bankruptcy proceedings the expenses of the bankruptcy are payable out of the assets of the bankrupt's estate prior to any distribution to creditors.

## 48.33 Order of priority of payment

The priority for payment of costs and expenses must be followed in order, as set out in the Insolvency (England and Wales) Rules 2016 at Rule 7.108 (company liquidations) and Rule 10.149 (bankruptcies). Rule 7.108 is subject to the provisions of rules 7.111 to 7.116, which deal with litigation expenses and property subject to a floating charge.

## 48.34 Expenses where there is a floating charge account in a liquidation case.

Section 176ZA applies to all compulsory liquidation cases where the winding-up order is made on or after 6 April 2008, except where the winding-up order is made following a resolution for a voluntary winding up, passed by that company before the commencement date (6 April 2008).

The effect of this section is to allow unpaid general liquidation expenses to be recovered from the floating charge account as well as the general estate account.

## 48.35 Expenses of previous voluntary liquidation

If a creditors' or members' voluntary winding up precedes a winding up by the court, the remuneration of the voluntary liquidator and the costs and expenses of the voluntary liquidation that may be allowed by the court, rank in priority with those of the provisional liquidator, official receiver or liquidator referred to in the Insolvency (England and Wales) Rules 2016 Rule 7.108(4)(a)  Rule 7.109 refers.

# 48.36 Expenses of provisional liquidator

Where a provisional liquidator causes a company to continue trading until the business of the company is sold as a going concern, and has collected VAT and deducted PAYE income tax and national insurance contributions from staff wages, these expenses are given superior priority[1]. In the relevant precedent case case, the High Court also ordered that other expenses incurred by the provisional liquidator in preserving, realising or getting in any of the assets should be paid in priority to the expenses of the official receiver or liquidator in undertaking the same type of work, but after the payment of the tax liabilities.

1. Grey Marlin Limited [1999] All ER (D)

# 48.37 Expenses incurred in an existing voluntary arrangement

If a winding-up order is made when there is at the date of the presentation of the petition a company voluntary arrangement (CVA) in force, the expenses properly incurred as expenses of the administration of the CVA should be paid in priority to any expenses of the liquidation.

In the same way, if a bankruptcy order is made on a debtor's petition, and at the time the petition is presented the debtor is subject to an individual voluntary arrangement (IVA) which is in force, any expenses properly incurred as expenses of the administration of the IVA become a first charge on the bankrupt's estate.

# 48.38 Payment of administrator's remuneration and expenses upon vacating office

Where a person ceases to be the administrator of a company, which could be as a result of resignation, death, removal from office or cessation of appointment (for example where a winding-up order is made), the former administrator holds a first charge in respect of their remuneration and expenses incurred during their appointment, on any assets over which they had custody or control immediately before the cessation of the administration[1]. This also applies to any assets held by the administrator which are subject to a floating charge[2, 3].

In practice this means the former administrator is likely to transfer to the liquidator any assets they are holding net of their remuneration and expenses. For details of the priority of payment of administration expenses see rule 3.51.

1. Insolvency Act 1986, schedule B1, paragraph 99(3)(a)

2. Insolvency Act 1986, schedule B1, paragraph 99(3)(b)

3. Insolvency Act 1986, schedule B1, paragraph 70

# 48.39 Administrator's charge over assets held immediately prior to cessation of appointment

Any sum payable in respect of a debt or liability arising out of a contract entered into by the former administrator is also a first charge on assets over which they had custody immediately prior to the cessation of their appointment[1]. This includes any liability arising under a contract of employment adopted by the former administrator (or a predecessor)[2]. The charge on the assets in respect of these debts arising out of contracts entered into, takes priority over any charge in respect of the former administrator's remuneration and expenses.

1. Insolvency Act 1986, schedule B1, paragraph 99(4)

2. Insolvency Act 1986, schedule B1, paragraph 99(5)

# 48.40 Assets received by liquidator following prior administration

Where an administrator was in office prior to the liquidation of the company, any remuneration and expenses owing to the administrator are charged on and payable out of assets of which the administrator had custody or control immediately before cessation of appointment. However, there may be instances of funds refundable to the company prior to cessation but paid after cessation that do not fall within this as they cannot be said to have been within the custody or control of the administrator. An example of this would be a refund of business rates due prior to cessation but paid after cessation.

# 48.41 Payment of expenses of winding up proceedings

In the event of assets being insufficient to satisfy the liabilities, the court may make an order as to the payment out of the assets of the expenses incurred in the winding up, in such order of priority as it thinks just[1]. In a normal case, the priorities laid down by IR2016 rules 7.108 and 7.109 will apply. The court will only in exceptional circumstances exercise its jurisdiction under IA86 section 156 to confer on the

liquidator's remuneration, or any part of it, priority over liquidation expenses which would normally rank before it[2].

1. Section 156

2. Re Linda Marie (In liquidation) (1988) 4 B.C.C. 463

## 48.42 Payment of former liquidator or trustee's costs (official receiver acting ex-officio)

Where an insolvency practitioner vacates office following appointment as liquidator or trustee, they may have unbilled costs still to be charged to the estate. If the official receiver, acting in an ex-officio capacity, realises further assets, the former liquidator or trustee's unbilled costs can be paid from these further realisations following the usual order of priority[1, 2].

1. Rule 7.108

2. Rule 10.149

# Petition deposit and costs (excluding partnerships)

## 48.43 Petition deposit

A winding-up or bankruptcy petition cannot be presented to court unless a deposit has been paid to the court and receipt produced or the Secretary of State has given written notice to the court, that the petitioner has made suitable alternative arrangements to pay the deposit[1, 2, 3]. An exception to this requirement to pay a deposit is where the court, on hearing an application for an administration order in respect of a company, decides instead to treat the application as a winding-up petition and make any order which the court could normally make under section 125 of the IA86 (powers of court on hearing of petition)[4]. Courts must transmit the deposit paid, with the details of the petition, to The Insolvency Service, Estate Accounts and Scanning (EAS)[5].

1. Rule 7.7

2. Rule 10.12

3. Rule 10.39

4. Schedule B1, paragraph 13(1)(e)

5. Insolvency Proceedings (Fees) Order, article 6(3)

# 48.44 Deposit and Adjudicator's administration fee for bankruptcy application

Bankruptcy debtor petitions were removed from the courts and replaced by the new online bankruptcy application service from April 2016. The digital applications go to the Adjudicator's Office who consider and make the decision for bankruptcy. The debtor must pay a total sum of £680 in full before their bankruptcy application can be submitted. This comprises £130 for the Adjudicator's administration fee, for the performance of the Adjudicator functions, and £550 deposit as security for the payment of the Official Receiver's fee.

After a bankruptcy application is submitted the Adjudicator's fee (£130) is not returned regardless of the outcome decision. The deposit amount will be repaid to the debtor where the Adjudicator has refused to make a bankruptcy order, 14 days have elapsed since notice of refusal and no request made to review the decision.

# 48.45 Amount of Petition deposits

The Insolvency Proceedings (Fees) Order 2016, article 4, makes provision for the payment of deposits as security for the payment of fees in insolvency proceedings.

Article 2 provides that the appropriate deposits to pay are as follows (with effect from 21 July 2016):

(a) in relation to a winding-up petition, other than a petition presented under section 124A (petition on grounds of public interest), the sum of £1,600;

(b) in relation to making a bankruptcy application by the debtor , the sum of £550;

(c) in relation to all other cases (including creditor petition bankruptcy cases)[1], the sum of £990

1. Section 264(1)

# 48.46 Deposit repayment (including following annulment or rescission)

The deposit paid by the petitioner on presentation of a winding-up or bankruptcy petition, or by the debtor on making a bankruptcy application, is security for the payment of the Official Receiver's administration fee. Where an order is made (including any case where the order is made and 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 the assets of the company, are insufficient to discharge the Official Receiver's fee, unless the court orders otherwise. This means that if there were no or insufficient assets realised but for example the Official Receiver's administration fee was charged in a bankruptcy case, the deposit can be retained to pay part of that fee.

# 48.47 Repayment of deposit where petition dismissed or withdrawn

Where a petition is dismissed or withdrawn before an insolvency order is made, generally the deposit will be repaid to the person who paid it[1], less an administration fee of £50.

1. Insolvency Proceedings (Fees) Order, article 6(4)

# 48.48 Deposit amount changed after petition presented

A petition can only be filed on the production of a receipt for the deposit payable. The petition deposit will be the appropriate amount due as at the date that it is paid to the court. If the amount required for the deposit has changed before the making of the insolvency order (as a result of updated fees amendment legislation coming in to force in the interim period), the deposit paid is still valid and the official receiver will continue the administration of the case using the original deposit as security for payment of the fees.

Where in a bankruptcy case there is an annulment hearing and the petition is re-listed for hearing, it is open to the official receiver to seek an order of the court that, where the deposit amount increased after the original petition was filed, the difference required to reach the increased deposit amount is paid, as a condition of the petition being re-listed. Without such a court order the official receiver will have no grounds to recoup the difference from the petitioner.

# 48.49 Frequent petitioner accounts

The Insolvency (England and Wales) Rules 2016 allow creditors to make alternative arrangements for the payment of deposits. The amendment provides that a deposit must be paid to the court before a petition can be filed unless the Secretary of State has given written notice to the court that the petitioner has made suitable alternative arrangements to pay the deposit[1, 2]. Petitioners may set up an account with EAS which will fund only the deposits on any petitions presented which result in orders

being made. This means that those petitioners with approved accounts are not required to pay a deposit to the court upon filing a petition. This provision benefits those creditors who issue large numbers of petitions that are subsequently dismissed/withdrawn, as funds are only taken when the order is made. EAS will notify the HM Courts and Tribunals Service with the particulars of creditors who open a frequent petitioner account with The Service.

1. Rule 7.7(2)

2. Rule 10.12(2)

# 48.50 Dealing with the deposit in frequent petitioner cases

In practice, when a frequent petitioner presents a petition, they will not have to pay the deposit to the court. If the petition is subsequently dismissed or withdrawn, the dismissed / withdrawn petition administration fee of £50, is charged and this amount is paid/recovered from HMRC's Frequent Petitioner Account funds. This is done automatically when the date of dismissal or withdrawal is updated into the case management system.

If the order is made, the financial system will automatically post the amount of deposit onto the case's General Fund and equally, debit the frequent petitioner's account which holds the funds received in advance for the expected volume of orders. Any subsequent refund of deposit, following an annulment or where there is a credit balance etc., will be processed as per current practice by a cheque payment made to the petitioner. Twice monthly the frequent petitioner is invoiced to top-up their account to a pre-agreed limit. The account is carefully monitored by EAS to ensure that they do not become overdrawn.

EAS have responsibility for managing the Frequent Petitioner account and are also responsible for giving notice to the HM Courts and Tribunals Service when frequent petitioner status is granted or revoked.

# 48.51 Deposit to be returned where petitioner's costs forfeited

Where the liquidator or trustee proceeds with a distribution to creditors, should sufficient funds exist following payment of expenses ranked as a higher priority[1, 2], they are required to repay the costs of the petitioner and of any person appearing on the petition whose costs are allowed by the court. Where the office-holder requires the petitioning creditor to decide their costs by detailed assessment[3] and the

petitioner fails to commence proceedings to decide these costs within 3 months of the requirement, they forfeit their claim to those[4].

The instruction requiring the repayment to the petitioner of any amount repayable from the deposit lodged as security for the payment of fees appears higher in the order of priority of expenses[5, 6] than payment of the petitioner's costs. This means that irrespective of the forfeiture of the petitioner's costs, the petition deposit should be repaid to the petitioner to the extent that it is not required to pay fees where the insolvent's assets are insufficient.

1. Rule 7.108

2. Rule 10.149

3. Rule 12.42

4. Rule 12.43

5. Rule 7.108

6. Rule 10.149

## 48.52 Detailed Assessment of costs

As a general guide, a bill for petition costs up to £2,200 in companies and £1,700 in bankruptcies can be approved by the official receiver (or their deputy) for immediate payment. Depending on the circumstances of the case it may be that a higher amount is justified where, for example, service of the petition has been resisted. Where the costs are considered excessive, the petitioning creditor's solicitor should be informed and asked to reduce their bill to an acceptable level or submit the bill for assessment and provide a costs certificate for payment. Detailed assessment should only be requested where there are sufficient funds to enable the petition costs to be paid in full or where it is known that funds will become available shortly.

# Partnership fees, costs and expenses

## 48.53 Introduction

This part deals with the administration of partnership cases, including fees, costs, expenses and assets. The provisions in this regard are provided under the IA86 with modifications under the Insolvent Partnerships Order 1994 (IPO94).

# 48.54 Winding up procedures for partnership businesses

The IPO94 provides five routes via which a partnership business may be wound up:

(a) “Ordinary” partnerships:

- winding up as an unregistered company without any petitions against the members or former members. The petitioner is any person other than a member
- winding up as an unregistered company with petitions against one or more of the members or former members. Petitioner is either a creditor, liquidator or temporary administrator
- winding up as an unregistered company without any petitions against the members where the petitioner is a member of the partnership
- winding up as an unregistered company with petitions against all the members. Petitioner is a member

(b) Article 11 partnerships:

- joint bankruptcy petition by the members without the winding up of the partnership as an unregistered company; although the order gives the trustee of the bankruptcy estates authority to wind up the affairs of the partnership

See Annex B to this chapter for details of the different accounting conventions for the deposit and administration fee applied to “Ordinary” and “Article 11” partnerships.

# 48.55 Deposit received in partnership winding up proceedings (Article 7 or 9 of the IPO94)

If a deposit is received for the winding up of a partnership under Articles 7 or 9 of the Insolvent Partnerships Order 1994 (IPO94) (where there is no concurrent petition against any member), the case should be treated as if it were an unregistered company and the deposit credited to the partnership’s estate account.

# 48.56 Deposit received in partnership winding up proceedings (Articles 8 or 10 of the IPO94)

If a deposit is received for the winding up of a partnership (as an unregistered company) and also concurrent petitions are presented against one or more members of the partnership (under Article 8 or 10 of the IPO94), one deposit is paid and credited to the partnership estate account. Proof of payment of this deposit is sufficient to enable a petition to be presented against any member, but the deposit is only credited to the partnership estate account[1].

1. Insolvent Partnerships Order 1994, article 13

# 48.57 Petitioner’s costs in abortive partnership winding up proceedings not claimable from bankruptcy estate

Where a petition is presented against a partnership business and an individual partner under Article 8 of the IPO94, and the winding-up petition against the partnership is subsequently dismissed, the petitioner cannot claim expenses related to the winding up of the partnership from the partner’s bankruptcy estate. If the winding-up petition is withdrawn (i.e. as a consequence of the petition debt being paid) or dismissed, it is open to the petitioning creditor to seek an order for costs in those proceedings. Without an order of costs in the winding-up proceedings, the petitioning creditor must bear their own costs.

# 48.58 Joint bankruptcy petition under Article 11 of the IPO94

If a joint bankruptcy petition is presented under Article 11 (Insolvency proceedings not involving the winding up of the insolvent partnership as an unregistered company where individual members present joint bankruptcy petition), then only one deposit will be received. In such cases only one joint bankruptcy order is drawn up showing each description separately and appointing the trustee of the bankrupts' estates to be trustee of the partnership estate and to wind up the affairs of the partnership and administer the partnership property. An estate account should be opened for the partnership and separate estate accounts for each partner. The petition deposit should only be apportioned equally between the separate estates and not the joint estate.

1. Insolvent Partnerships Order 1994, article 11

# 48.59 Partnership administration fees

# (a) Joint bankruptcy petition (Article 11)

Where the members of an insolvent partnership jointly present a petition to the court for bankruptcy orders to be made against each of them in their capacity as a member of the partnership, and the winding up of the partnership business and administration of its property without the partnership being wound up as an unregistered company, the bankruptcy provisions of the IA86 Part IX (except

sections 273, 274 and 287) and Parts X to XIX apply. Each individual partner's estate will attract an administration fee (fee B1) but no administration fee is charged against the joint estate.

# (b) Winding-up order against partnership plus concurrent insolvency orders against member(s)

Where a winding-up order is made against a partnership and there are concurrent insolvency orders against some, or all, members, the partnership itself is treated as an unregistered company and the official receiver's administration fee will be charged to the partnership estate,  and charged in each individual member's estate. In addition to the partnership estate, there will be a separate estate for each member against whom an insolvency order is made[1, 2].

1. Insolvent Partnerships Order 1994, article 8

2. Insolvent Partnerships Order 1994, article 10

# 48.60 Consolidation of partnerships – dealing with administration fee

Where two or more bankrupts in partnership jointly declare themselves bankrupt on a debtors' petition, this should be completed under an Article 11 IPO94 partnership application. The court will make individual insolvency orders against each individual member, and the official receiver will be authorised to wind up the affairs of the partnership under one court number, but without the making of a winding-up order against the partnership. Each member's estate will have an administration fee charged against it, but an administration fee will not be charged against the partnership estate.

Occasionally, where individual partners have filed separate applications for bankruptcy, the court makes separately numbered bankruptcy orders against the individual members (instead of filing the orders under Article 11 under one court number). Subsequently the official receiver can apply to court under Article 14 of the IPO94 to have the orders consolidated under the earliest court number and for the relevant provisions to apply to the insolvency costs. Each of the estates against which an insolvency order has been made should have an administration fee charged to it (but not the partnership estate as this does not have an insolvency order made against it).

# 48.61 Official Receiver's General Fee in partnership estates

The Official Receiver's general fee is charged in full to each partnership estate regardless, this includes joint, members, parent and child cases within the partnership.

# 48.62 Winding up of insolvent partnership as unregistered company on petition of creditor etc., or member, where no concurrent petition presented against member

The provisions of the Insolvency Act 1986 and the Companies Act 2006 apply to the winding up of an insolvent partnership as an unregistered company. This means the usual rules regarding the administration and application of assets in winding up proceedings are applied where an insolvent partnership is wound up as an unregistered company and there is no concurrent petition presented against any member of the partnership.

# 48.63 Winding up of insolvent partnership as an unregistered company on creditor's petition where concurrent petitions presented against one or more members

Article 8 and Schedule 4 of the IPO94 apply the provisions of Part V IA86 (winding up of unregistered companies, (other than sections 223 and 224), as modified, to the winding up of an insolvent partnership as an unregistered company on a creditor's petition where concurrent petitions are presented against one or more members[1, 2]. In the case of the winding up of a corporate member or former corporate member of an insolvent partnership being wound up under this regime, Parts IV, VI, VII and XII to XIX IA86 apply and, in the case of the bankruptcy of an individual or former individual member of an insolvent partnership, Part IX (other than sections 269, 270, 287 and 297) and parts X to XIX IA86 apply. Modifications to IA86 are contained in Schedule 4 IPO94. The principal modifications having a bearing on the distribution of partnership assets relate to sections 175 and 328 IA86 which deal with the priority of expenses and debts.

1. Insolvent Partnerships Order 1994, article 8

# 48.64 Priority of expenses

Sections 175 and 328 as modified by the Insolvent Partnerships Order 1994 Schedule 4(23) apply in a case where Article 8 or Article 10 of IPO94 apply, as regards priority of expenses incurred by a responsible insolvency practitioner of an insolvent partnership (which includes the official receiver), and of any insolvent member of that partnership against whom an insolvency order has been made.

Section 328 as modified by the Insolvent Partnerships Order 1994 Schedule 7(21), applies in a case where an Article 11 order has been made.

The priority of expenses is as follows:

i. Firstly the assets of the partnership estate are applied in payment of the partnership estate expenses.

ii. Also the assets of the separate estate of each insolvent member are first applied to the payment of the separate expenses relating to that member's estate.

iii. Where insufficient funds are available in the joint estate to pay the joint expenses in full, any unpaid balance is apportioned equally between the separate estates of insolvent members (against whom insolvency orders have been made) and shall form part of the expenses to be paid out of those estates.

iv. If any separate estate of an insolvent member has insufficient funds to pay in full the separate expenses relating to that estate, then the unpaid balance shall form part of the expenses to be paid out of the joint estate.

v. If once an unpaid balance has either been apportioned between the separate estates or transferred to the joint estate, as the case may be, the balance remaining unpaid shall be apportioned equally between the other estates.

vi. If there are still insufficient funds to pay in full, then the unpaid balance will be apportioned equally between the other estates. After this, where one or more estate is carrying a debit balance, the total of the unpaid expenses to be paid out of those estates shall continue to be apportioned equally between the other estates until the expenses are paid in full or there are no funds available to meet the unpaid expenses, in which case the unpaid balance is apportioned equally between all estates.

# 48.65 Payment of expenses from any estate, with the leave of the court or sanction of the creditors' committee

Without prejudice to the guidance above, the responsible insolvency practitioner, with the sanction of the creditors' committee or with the leave of court, may;

a. pay out of the joint estate as part of the expenses to be paid out of that estate any expenses incurred for any separate estate of an insolvent member; or

b. pay out of any separate estate of an insolvent member any part of the expenses incurred for the joint estate which affects the separate estate[1]

1. Insolvent Partnerships Order 1994, schedule 4, paragraph 23

# Debit balances

## 48.66 Incurring a debit balance

Authority is not required to increase a debit balance by £2,500 or less. Before the official receiver incurs any exceptional costs that may result in the creation or increase of a debit balance above £2,500, the prior approval of the Senior Official Receiver must be obtained before the costs are incurred, unless specific authority is given in the operational guidance. Consideration should be given to the net effect of the transaction to which the proposed expenditure relates. Where an agent is instructed to deal with an asset matter and the amount to be realised by the agent will be in excess of the agent's fees the Senior Official Receiver's authority would not be required.

Guidance on seeking and obtaining the approval of the Senior Official Receiver can be found in chapter 1.

## 48.67 Debit balance write offs and subsequent asset realisation

The principle of the legislative framework set out by the Insolvency Act 1986 and the Enterprise Act 2002 is that the costs of the liquidation or bankruptcy must be met from the insolvent estate. The order of payment of costs from an insolvent's estate is set out in the IR2016 at Rule 7.108 for companies and at Rule 10.149 for bankruptcy estates. There is no provision in the legislation to write off the expenses of the liquidation or bankruptcy. If unsecured assets are realised they must be applied by reference to the priority of payment regardless of the date of realisation, and the case will be re-opened should assets become realisable after the case has been closed for administration purposes. The writing off of debts is an administrative policy/process. It is carried out for accounting and administrative purposes only.

# Fees and expenses in IVAs

## 48.68 Expenses following default in individual voluntary arrangement

In a bankruptcy case, if a bankruptcy order is made on a petition presented by the supervisor as a result of the bankrupt's failure to fulfil their obligations under a voluntary arrangement[1], the expenses properly incurred as expenses of the administration of the voluntary arrangement become a first charge on the bankrupt's estate[2].

1. Section 264(1)(c)

2. Section 276(2)

## 48.69 Debtor's petition when voluntary arrangement in force

Under rule 4.21A of the Insolvency Rules 1986, where a bankruptcy order is made when, at the time the petition was presented there was in force a voluntary arrangement for the individual, any unpaid expenses of the arrangement properly incurred in the arrangement shall be paid in priority to any expense of the administration or shall be a first charge on the bankruptcy estate (as the case may be). This provision is in respect of cases where the bankruptcy petition was presented or bankruptcy application made before 6 April 2017, when The Insolvency (England and Wales) Rules 2016 came into force, but not thereafter.

# Investment of funds by liquidator and trustee

## 48.70 Payments into the Insolvency Services Account (ISA)

The Insolvency Regulations 1994 (as amended) require the liquidator of a company wound up by the court or trustee in bankruptcy to pay all money received by

themselves in the course of carrying out their functions as such, without any deduction, into the Insolvency Services Account (ISA) kept by the Secretary of State. The money is required to be paid into the account to the credit of the company or bankrupt once every 14 days or forthwith if £5,000 or more has been received[1, 2, 3].

1. Insolvency Regulations 1994, regulation 5(1)

2. Insolvency Regulations 1994, regulation 20(1)

3. Section 403

# 48.71 Cash received locally

Where the official receiver receives cash, e.g. recovered on inspection, they should pay the monies into the ISA by banking at a local branch using a paying in book issued by EAS and email a copy of any general receipt issued in respect of cash taken together with details of the paying-in slip reference to CustomerServices.EAS@Insolvency.gov.uk.

All other monies remitted to the official receiver should be forwarded to EAS for processing and banking. Details of general receipts and remittances should be emailed to CustomerServices.EAS@Insolvency.gov.uk prior to dispatch.

# 48.72 Dealing with receipts where a liquidator or trustee continues a business

An exception to the requirement to pay all monies into the ISA is where the liquidator or trustee is exercising their power to carry on the business of the company or bankrupt and the Secretary of State has authorised operation of a local bank account[1]. In this circumstance the official receiver as liquidator or trustee may apply to the Secretary of State (Senior Official Receiver's Office ) for authorisation to open a local bank account. The Secretary of State may then authorise the official receiver to make payments into and out of a specified bank, subject to a limit, instead of the ISA[2, 3]. Authorisation will only be given where Senior Official Receiver's Office acting on behalf of the Secretary of State is satisfied that an administrative advantage will be gained from having such an account. The liquidator or trustee shall pay without deduction any surplus over any limit imposed by the Secretary of State into the ISA. The official receiver should exercise extreme care to ensure that only money belonging to the estate is paid into the ISA. Third party monies should not be paid in but held in a separate account.

1. Insolvency Regulations 1994, regulation 21(1)

2. Insolvency Regulations 1994, regulation 6

3. Insolvency Regulations 1994, regulation 21

# 48.73 Payment of interest to estate

Whenever there are monies standing to the credit of the company or the estate of the bankrupt in the ISA, the company or bankruptcy estate shall be entitled to interest on those monies. The interest rate applied to estate balances in the Insolvency Service Account is set to match the Bank of England base interest rate. The Secretary of State may, by notice published in the London Gazette, vary the rate of interest, and such variation shall have effect from the day after the date of publication of the notice in the London Gazette[1, 2].

1. Insolvency Regulations 1994, regulation 9(6B)

2. Insolvency Regulations 1994, regulation 23A(6B)

# 48.74 Cessation of interest accrual

Interest  shall cease to accrue when the liquidator or trustee gives written notice to the Secretary of State that in their opinion it is expedient or necessary, in order to facilitate the conclusion of the winding up or bankruptcy, that the interest should cease to accrue. Interest shall start to accrue again where the liquidator or trustee gives a further notice in writing to the Secretary of State requesting that interest should start to accrue again[1, 2].

1. Insolvency Regulations 1994, regulation 9(6A)

2. Insolvency Regulations 1994, regulation 23A(6A)

# 48.75 Automatic calculation and payment of interest and tax

All bankruptcy and company estate funds are interest bearing by default unless EAS are instructed otherwise by liquidator or trustee. Interest and tax is automatically calculated and posted to all financially open estate funds bi-annually in April and October.

Trustees and liquidators may instruct EAS to cease and capitalise interest for an individual case, e.g. Insolvency Practitioner’s preparation to bring case to a close and report final receipts and payments with final interest. When actioned by EAS ISCIS Financials will calculate and post the final interest overnight to the case.

# 48.76 Payments into the ISA by liquidator following company dissolution

Following the amendment of the Insolvency Regulations 1994 on 6 April 2008, monies which are still held by the former liquidator, administrator or administrative receiver of a dissolved company and which are either unclaimed dividends due to creditors (where for example creditors cannot be traced), and/or sums held by the company in trust in respect of dividends or other sums due to any person as a member or former member of the company[1], may in the case of a voluntary winding up, administration or administrative receiver be paid into the ISA. In the case of a winding up by the court these monies must be paid into the ISA[2].

(Former) liquidators of companies in members' voluntary liquidations are still likely, upon the dissolution of those companies, to pay the monies so held into the ISA, unless, for example, the monies were to be held by a trust company or corporation which had had some involvement in the processing of the distribution of the monies.

1. Insolvency Regulations 1994, regulation 18(1)

2. Insolvency Regulations 1994, regulation 18(2)