



STATUTORY INSTRUMENTS.

S.I. No. 465 of 2013



PERSONAL INSOLVENCY ACT 2012 (PRESCRIBED FEES IN
BANKRUPTCY MATTERS) REGULATIONS 2013

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The Insolvency Service of Ireland, in exercise of the powers conferred on it by section 3 and section 20 (as amended by section 40 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 (No. 32 of 2013)) of the Personal Insolvency Act 2012 (No. 44 of 2012), and with the consent of the Minister for Justice and Equality, hereby makes the following regulations:

Citation and Purpose

1. (1). These Regulations may be cited as the Personal Insolvency Act 2012 (Prescribed Fees in Bankruptcy Matters) Regulations 2013.

(2) These Regulations are made for the purposes of prescribing the fees due to be paid to the Insolvency Service and when they fall due in respect of the performance of the functions of the Official Assignee under the Bankruptcy Act 1988 and any other relevant enactment.

Definitions

2. In these Regulations—

“adjudication” means adjudication in bankruptcy in accordance with the Bankruptcy Act 1988;

“bankruptcy matter” shall be construed in accordance with the Bankruptcy Act 1988;

“the Court” has the same meaning as it has in section 3 of the Bankruptcy Act 1988;

“gross proceeds” in relation to property (including property comprised in a residual estate), means the realised value of the property without any deduction for any costs or expenses incurred in connection with its realisation and irrespective of any mortgage, charge, lien or other security to which it is subject;

“gross value” in relation to property, means the value of the property without any deduction for any costs or expenses that have been, or may be, incurred in connection with its realisation and irrespective of any mortgage, charge, lien or other security to which it is subject;

“Official Assignee” has the same meaning as it has in section 3 of the Bankruptcy Act 1988;

“property” has the same meaning as it has in section 3 of the Bankruptcy Act 1988;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th December, 2013.*

“realise” in relation to property, includes its sale or any other manner by which it is brought to credit and cognate words shall be construed accordingly;

“trustee in bankruptcy” means a person appointed as trustee under Part V of the Bankruptcy Act 1988.

Fees Payable in Bankruptcy Matters

3. (1) The fee payable to the Insolvency Service for general administrative work carried out by the Official Assignee in the performance of his functions in respect of a bankrupt’s estate (or, as applicable, the estate of a deceased person under Part VI of the Bankruptcy Act 1988) shall be the amount specified in Column (2) of Table 1 of the Schedule opposite the relevant gross value of the property in the bankrupt’s (or, as applicable, deceased’s) estate as set out in Column (1) of the said Table.

(2) The fee referred to in Regulation 3(1) shall fall due for payment on the following:

- (a) in the case of an adjudication under section 15 of the Bankruptcy Act 1988 founded on a petition of a debtor or an adjudication under section 105 of the Bankruptcy Act 1988 of an arranging debtor, on adjudication;
- (b) in the case of adjudication under section 14 of the Bankruptcy Act 1988 founded on a petition of a creditor, on the date of the final hearing of the statutory sitting referred to in section 17(3) of the Bankruptcy Act 1988;
- (c) in the case of the administration of a deceased’s estate under Part VI of the Bankruptcy Act 1988, on the making of the order for administration under Section 117 of the Bankruptcy Act 1988.

(3) For the purposes of Regulation 3(1), the gross value of the property in the bankrupt’s (or, as applicable, deceased’s) estate shall be the gross value of such property on the date on which the fee falls due for payment in accordance with Regulation 3(2).

4. (1) The fee payable to the Insolvency Service in respect of the performance by the Official Assignee of his functions in relation to the getting in and realisation of property in a bankrupt’s estate (or, as applicable, the estate of a deceased person under Part VI of the Bankruptcy Act 1988) from time to time, shall be the amount calculated by reference to the aggregate gross proceeds of all such property in accordance with Table 2 of the Schedule.

(2) If for any reason the estate of a bankrupt (or, as applicable, the estate of a deceased person under Part VI of the Bankruptcy Act 1988) is not fully distributed at the first sitting of the Court pursuant to section 82 of the Bankruptcy Act 1988, the fee payable to the Insolvency Service in relation to the getting in and realisation of the residual estate for the purpose of each subsequent distribution shall be calculated in accordance with Regulation 4(1) subject to the following modifications:

- (a) for the purpose of determining the relevant percentage or percentages in Column (2) of Table 2 of the Schedule, the gross proceeds of the residual estate shall be aggregated with the gross proceeds of all property previously got in and realised by the Official Assignee for the purpose of all earlier distributions; and
- (b) in applying the relevant percentage or percentages referred to in (a) to the calculation of the fee, the gross proceeds of the residual estate only shall be taken into account.

5. The fee payable to the Insolvency Service for functions performed by the Official Assignee in respect of the distribution of a bankrupt's estate (or, as applicable, the estate of a deceased person under Part VI of the Bankruptcy Act 1988) shall be the amount specified in Column (2) of Table 3 of the Schedule opposite the relevant number of creditors proving in the bankrupt's (or as applicable, deceased's) estate as set out in Column (1) of the said Table.

6. (1) Where a trustee in bankruptcy is appointed, the fee payable to the Insolvency Service for all functions performed by the Official Assignee in respect of a bankrupt's estate shall be the amount calculated by reference to the aggregate gross proceeds of all property got in and realised by the trustee in bankruptcy (or, where applicable, by the Official Assignee prior to the appointment of the trustee in bankruptcy) in accordance with Table 4 of the Schedule.

(2) If for any reason the estate of a bankrupt is not fully distributed at one or more sittings of the Court pursuant to section 82 of the Bankruptcy Act 1988, the fee payable to the Insolvency Service in relation to the getting in and realisation of the residual estate by the trustee in bankruptcy for the purpose of each subsequent distribution shall be calculated in accordance with Regulation 6 (1) subject to the following modifications:

- (a) for the purpose of determining the relevant percentage or percentages in Column (2) of Table 4 of the Schedule, the gross proceeds of the residual estate shall be aggregated with the gross proceeds of all property previously got in and realised by the trustee in bankruptcy (or, as applicable, the Official Assignee) for the purpose of all earlier distributions; and
- (b) in applying the relevant percentage or percentages referred to in (a) to the calculation of the fee, the gross proceeds of the residual estate only shall be taken into account.

7. The fees payable to the Insolvency Service under Regulations 4 to 6, shall fall due for payment on-

- (a) the date on which the Court, under section 82 of the Bankruptcy Act 1988, makes an order for distribution of the estate or part thereof, or
- (b) the date on which the Court, under section 39 of the Bankruptcy Act 1988, approves an offer of composition.

Fees Payable in Arrangements under the Control of Court under Part IV of the Bankruptcy Act 1988

8. (1) The fees payable to the Insolvency Service for all functions performed by the Official Assignee in respect of an arrangement under Part IV of the Bankruptcy Act 1988, where a petition under section 87 of the Bankruptcy Act 1988 has been presented to the Court prior to the date of the coming into operation of section 35 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013, but the Court, prior to that date, has not approved a proposal under section 92 of the Bankruptcy Act 1988, shall be 10 per cent of the amount lodged with the Official Assignee under section 97 of the Bankruptcy Act 1988 for the purposes of distribution as referred to in the said section 97.

(2) The fee referred to in Regulation 8 (1) shall fall due for payment on the date on which the amount is lodged with the Official Assignee under section 97 of the Bankruptcy Act 1988.

(3) The fee referred to in Regulation 8(1) shall not apply to an existing arrangement, the proposal for which has, at the date of the making of these Regulations, been approved by the Court under section 92 of the Bankruptcy Act 1988.

Schedule

Table 1

Column (1)	Column (2)
Gross value of bankrupt's property	Administration fee (Regulation 3)
Less than €10,000,000	€2,000
€10,000,000 to €50,000,000	€4,000
€50,000,000 to €100,000,000	€6,000
€100,000,000 to €150,000,000	€8,000
€150,000,000 or greater	€10,000

Table 2

Column (1)	Column (2)
Aggregate gross proceeds of all property got in and realised from time to time by Official Assignee	Percentage of gross proceeds payable to the Insolvency Service as fee (Regulation 4)
Up to Administration Fee charged per Table 1	0%
Next €1,500	100%
Next €6,500	50%
Balance up to €1,000,000	15%
Any excess over €1,000,000	1%

Table 3

Column (1)	Column (2)
Number of creditors proving in the bankrupt's estate	Distribution fee (Regulation 5)
Less than 10	€500
10-19	€1,000
20 or greater	€2,000

Table 4

Column (1)	Column (2)
Aggregate gross proceeds of all property got in and realised from time to time by a trustee in bankruptcy	Percentage of gross proceeds payable to the Insolvency Service as fee (Regulation 6)
Up to €1,000,000	10%
Excess over €1,000,000	1%

The Minister for Justice and Equality consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Justice and Equality,
3 December 2013.

ALAN SHATTER,
Minister for Justice and Equality.



GIVEN under the seal of the Insolvency Service of Ireland,
3 December 2013.

LORCAN O'CONNOR,
Director of the Insolvency Service of Ireland.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations prescribe the fees due to be paid to the Insolvency Service and when they fall due in respect of the performance of the functions of the Official Assignee under the Bankruptcy Act 1988 and any other relevant enactment.

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