

2008 No. 670

INSOLVENCY

COMPANIES

The Insolvency (Amendment) Regulations 2008

<i>Made</i> - - - -	<i>9th March 2008</i>
<i>Laid before Parliament</i>	<i>12th March 2008</i>
<i>Coming into force</i> - -	<i>6th April 2008</i>

The Secretary of State, in exercise of the powers conferred upon him by Rule 12.1 of the Insolvency Rules 1986(a) and section 411 of, and paragraph 27 of Schedule 8 to, the Insolvency Act 1986(b) hereby makes the following Regulations:—

Citation, commencement and interpretation

1. These Regulations may be cited as the Insolvency (Amendment) Regulations 2008 and shall come into force on 6th April 2008.

2. In these Regulations “the principal Regulations” means the Insolvency Regulations 1994(c).

Amendment of principal Regulations

3.—(1) The principal Regulations are amended as follows.

(2) After regulation 3A of the principal Regulations insert the following—

“Payment of unclaimed dividends or other money

3B.—(1) This regulation applies to monies which—

(a) are held by the former administrator of a dissolved company, and

(b) represent either or both of the following—

(i) unclaimed dividends due to creditors, or

(ii) 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.

(2) Any monies to which this regulation applies may be paid into the Insolvency Services Account.

(a) 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, 2005/527, 2006/1272 and 2007/1974.

(b) 1986 c.45.

(c) S.I. 1994/2507, as amended by S.I. 2000/485, 2001/762, 2001/3649, 2003/1633, 2004/472 and 2005/512.

(3) Where under this regulation the former administrator pays any sums into the Insolvency Services Account, he shall at the same time give notice to the Secretary of State of—

- (a) the name of the company,
- (b) the name and address of the person to whom the dividend or other sum is payable,
- (c) the amount of the dividend or other sum, and
- (d) the date on which it was paid.

(4) Where a dividend or other sum is paid to a person by way of a payment instrument, any payment into the Insolvency Services Account in respect of that dividend or sum pursuant to paragraph (2) may not be made earlier than on or after the expiry of 6 months from the date of the payment instrument.

PART 1B

ADMINISTRATIVE RECEIVERSHIP

Payment of unclaimed dividends or other money

3C.—(1) This regulation applies to monies which—

- (a) are held by the former administrative receiver of a dissolved company, and
- (b) represent either or both of the following—
 - (i) unclaimed dividends due to creditors, or
 - (ii) 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.

(2) Any monies to which this regulation applies may be paid into the Insolvency Services Account.

(3) Where under this regulation the former administrative receiver pays any sums into the Insolvency Services Account, he shall at the same time give notice to the Secretary of State of—

- (a) the name of the company,
- (b) the name and address of the person to whom the dividend or other sum is payable,
- (c) the amount of the dividend or other sum, and
- (d) the date on which it was paid.

(3) Where a dividend or other sum is paid to a person by way of a payment instrument, any payment in respect of that dividend or sum into the Insolvency Services Account pursuant to paragraph (2) may not be made earlier than on or after the expiry of 6 months from the date of the payment instrument.”.

(3) For the heading to, and for regulation 18 of the principal Regulations substitute the following—

“Payment of unclaimed dividends or other money

18.—(1) This regulation applies to monies which—

- (a) are held by the former liquidator of a dissolved company, and
- (b) represent either or both of the following—
 - (i) unclaimed dividends due to creditors, or
 - (ii) 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.

(2) Monies to which this regulation applies—

- (a) may in the case of a voluntary winding up,
 - (b) must in the case of a winding up by the court,
- be paid into the Insolvency Services Account.

(3) Where the former liquidator pays any sums into the Insolvency Services Account pursuant to paragraph (2), he shall at the same time give notice to the Secretary of State of—

- (a) the name of the company,
- (b) the name and address of the person to whom the dividend or other sum is payable,
- (c) the amount of the dividend, and
- (d) the date on which it was paid.

(4) Where a dividend or other sum is paid to a person by way of a payment instrument, any payment into the Insolvency Services Account in respect of that dividend or sum pursuant to paragraph (2) may not be made earlier than on or after the expiry of 6 months from the date of the payment instrument.”.

9th March 2008

Pat McFadden
Minister of State
for Employment Relations and Postal Affairs,
Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insolvency Regulations 1994 (S.I. 1994/2507). Regulation 3(2) of these Regulations inserts new regulations 3B and 3C into the Insolvency Regulations 1994 to make provision allowing payments of unclaimed funds and dividends to be made, on the dissolution of a company, by an administrator or an administrative receiver into the Insolvency Services Account. Regulation 3(3) also makes similar provision for liquidators in a voluntary winding up, whilst retaining the mandatory requirement to make payment into the Insolvency Services Account in respect of a winding up by the court. Further provision is made for the information which must be provided by the office-holders when making a payment into the Insolvency Services Account of unclaimed dividends or other sums in an administration, an administrative receivership or a voluntary winding up. All references to unclaimed or undistributed assets and undistributed dividends in regulation 18 are removed since upon the dissolution of a company all property and rights whatsoever vested in or held on trust for the company (but not including property held by the company on trust for any other person) are deemed to be *bona vacantia* and accordingly belong, and are payable to the Crown, or to the Duchy of Lancaster or to the Duke of Cornwall for the time being (as the case may be).

No regulatory impact assessment has been prepared for these regulations.

£3.00

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E2162 3/2008 182162T 19585