



Insolvency Rules 2016

What do IPs have to look forward to?

The Insolvency Service have recently announced that the Insolvency Rules 2016 ("the Rules") are to be laid before Parliament in October 2016. Provided that the proposed Rules are approved by Parliament, they are likely to come into force in April 2017.

So, what are the changes and what is this likely to mean for Insolvency Practitioners?

The new Rules are intended to:

- Consolidate the current Insolvency Rules 1986 and all amendments into a single piece of legislation;
- Modernise the language and make it gender neutral, for example changing 'Chairman' to 'Chair';
- Be drafted more consistently with the Insolvency Act 1986; and
- Incorporate various changes in the law, in order to reduce red tape.

The main focus of the new Rules is to bring the legislation up to date and to reflect modern business practices, to enable a more streamlined and efficient approach. Electronic communication will be encouraged; for example the use of email and websites to give information to creditors.

For example, following the Small Business, Enterprise, and Employment Act 2015, there is no requirement for creditors to physically attend meetings. This will be reflected within the new Rules, as well as in cases where a meeting is held to appoint a liquidator in a creditors' voluntary liquidation, there will no longer be any requirement for a liquidator nominated by the company to attend in person.

The Rules will also allow creditors the option to opt out of receiving correspondence, which will reduce unnecessary paperwork being issued by the Insolvency Practitioner, only for it to be disposed of by a creditor who does not wish to be part of the process.

This will also apply to preferential creditors in an Administration, where currently, if the Administrator thinks that the level of remuneration is insufficient, or inappropriate, then the Administrator may ultimately make an application to court. At present, notice of this application must be sent to all secured creditors

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and all preferential creditors where they are likely to receive a distribution. The new Rules will still require notice to be given to secured creditors, but only to preferential creditors who have engaged with the process. This will help to reduce the burden on the office holder, which will ultimately also lower the fees.

The procedure for payment of fees in a voluntary arrangement will be brought in line with voluntary liquidation. The provisions allowing reasonable expenses of a voluntary arrangement to be paid in priority to liquidation or bankruptcy expenses will be removed. This is to ensure consistency.

The overall aim of the Rules will be to respond to the pressure that has been applied to reduce the regulatory burdens on Insolvency Practitioners, and to make the processes more consistent. This in turn is intended to be less of a burden for the Insolvency Practitioners, and should result in a better return for creditors. How this works with the new fees regime, remains to be seen.

If you require further advice regarding the proposed changes, or more generally with an insolvency law related query, please contact any member of the firm's Restructuring and Insolvency Team.

More information

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