

NEWSLETTER FROM THE WORLD OF INSOLVENCY

The Insolvency Amendment Rules (2010)

A raft of new rules comes into force on 6 April 2010. There are new provisions for annual reports in Bankruptcies and Compulsory Liquidations. Office holders may now charge fixed fees in addition to fees based on a % of recoveries and time costs and can have a mixture of these bases. Insolvency notices must now have standard content. In corporate and personal insolvency proceedings in place of sending documents notice may be given of a website that may be used as a means of providing documents and information to creditors. There are also provisions for remote attendance at meetings using appropriate technologies and resolutions by correspondence without a meeting.

Be careful who you pay or lend money to

We sometimes receive requests from corporate creditors to make dividend payments to different entities or individuals because companies (or LLPs) have ceased trading or been dissolved. This is not always possible. When a company or LLP has been dissolved any realisable assets become bona vacantia and due to the Crown or the Duchy of Cornwall. In these circumstances we pay the dividend to the Crown or the Duchy of Cornwall. The same point applies to clients who are asked by a supplier to make payment to a company with a different name (or VAT number). Clients should check that they are paying the correct entity. The price of getting it wrong is a demand to pay the sum due again!

Fee increases at the Insolvency Service

From 6 April 2010 deposits on a bankruptcy petition will rise from £360 to £450. Adding the Court fee of £130 means that it will cost £580 to go bankrupt. A creditor's deposit on a bankruptcy petition will increase from £430 to £600 and a creditor's deposit on a company winding up petition increases from £715 to £1,000. The OR's bankruptcy case administration fee remains the same at £1,715 but the company winding up fee increases from £2,160 to £2,235. The basis for the charging of Secretary of State scale fees on bankruptcy and compulsory winding up cases is changing and is now more complex. A case with realisations of £20,000 will therefore now cost £5,045 as compared to £3,060 at present. On top of this the OR also charges time costs or realisation and distribution fees at scale rates. These fees continue to make the costs of Individual and Company Voluntary Arrangements and also Creditors' Voluntary Liquidations commercially attractive to creditors.

Going concern and liquidity risk: Guidance for directors of UK Companies 2009

The Financial Reporting Council (FRC) has issued new guidance on the 'going concern' concept that applies to accounting periods after 31 December 2009 (see www.frc.org.uk/publications). It encourages directors to focus on three principles: The Assessment of going concern, The Review period and Disclosure. The directors can then reach one of three conclusions. 1. There are no material uncertainties that affect the going concern. 2. There are material uncertainties. 3. The going concern basis is not appropriate. Where conclusion 2 is reached the guidance recommends that suitable disclosure be made about the nature of material uncertainties. Where conclusion 3 is reached the guidance recommends disclosure of the uncertainties that exist and an explanation of the basis of the accounts preparation. In case 3 situations the company accountants will have to advise the directors carefully, ring the alarm bells and refer them to Insolvency Practitioners.

Insolvency Statistics for 2009

Corporate Insolvencies - In 2009 in England & Wales there were 5,643 Compulsory Winding Ups (up 3% On 2008), 13,434 Creditors' Voluntary Liquidations (up 34% on 2008), 4,161 Administrations, 1,468 Receiverships and 726 Company Voluntary Arrangements. In relation to liquidations the total of 19,077 equates to just under 1% of the active register.

Personal insolvencies - In 2009 in England & Wales there were 74,670 Bankruptcies (up 11% from 2008), 11,831 Debt Relief Orders (introduced in April 2009), and 47,641 Individual Voluntary Arrangements (up 22% on 2008). In relation to all personal insolvencies the total of 134,142 individuals is up 26% on 2008. The number equates to one in every 320 adults. Of all Bankruptcy Orders, 84% were made on the petition of the debtors themselves (16% on creditors petitions) and 88% were 'consumer' type with only 12% having trade related debts.

For free initial advice or further information speak to any of our experienced team:

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