

NEWSLETTER FROM THE WORLD OF INSOLVENCY

Employment Rights Act payments. Increase in weekly rate to £380/week from 1 October 2009.

In the April budget the Government announced a one-off increase in the rate it pays employees of insolvent companies under the Redundancy Payment Scheme from 1 October 2009. This applies to arrears of wages, accrued holiday pay, compensation in lieu of notice, redundancy pay and basic awards for unfair dismissal. The next increase is scheduled for February 2011.

Is there a Trust created against general funds when client monies are paid into an overdrawn current account and the company then becomes insolvent?

Our readers may be interested in a recent Court of Appeal ruling in the case of BA Peters Plc (In Administration). The company was a boat builder. In this case, where client monies were paid into the Company's overdrawn business account instead of a client account and had been used to reduce the Company's liabilities and had therefore effectively vanished, no fund existed against which the client could establish trust/proprietary rights.

The Court ruled that the substantial funds remaining in the client account, after the identification of proprietary/trust rights of certain specified clients, were beneficially owned by the Company. These funds were therefore available to the Administrator for costs and the benefit of creditors generally and not to the clients who had paid monies into the overdrawn account.

This can be a tricky area for IPs and it is helpful to know that the Court is not ready to extend proprietary or equitable claims in insolvent situations.

Companies House Forms change from 1 October 2009.

Companies House Forms change from 1 October 2009 which will affect Insolvency Practitioners and mainstream accountants. We understand that old forms will be rejected. Specimen forms are available at:
www.companieshouse.gov.uk/act .

VAT Bad Debt Relief-Change of Policy by HMRC.

Brief 18/09 by HMRC advises of an important VAT Tribunal decision in Times Right Marketing Ltd (in liquidation) [2008] UKVAT V20611. HM Revenue and Customs have changed their policy on the right of creditors to claim Bad Debt Relief.

When the net VAT due on a return has not been paid or has been partly paid, payment will be taken to have been made to the extent that output tax is covered by deductible input tax. Any retrospective claims for repayment of under claimed Bad Debt Relief should be made within 3 ½ years of either the date on which the consideration that was written off as Bad Debt Relief was due and payable or the date of the supply.

Insolvency Practitioners and others will be examining case files closely to see whether further significant recoveries can be made for insolvent companies!

Debt Relief Orders (DROs) (England & Wales) and personal pension rules.

Insolvency Practitioners and Consumer Organisations have expressed fears that many people may be excluded from DROs because of current interpretation of the qualifying rules.

To be eligible, a debtor must have liabilities of less than £15,000, assets of less than £300 and a disposable income of less than £50/month. Assets of £300 include savings in pension funds even though the debtor cannot access such funds until they are approaching retirement. There have been 1,978 DROs since April.

Staff news.

We are pleased to announce that Sam Bailey's wife Becky has recently given birth to a baby boy and Karen Quant has returned from maternity leave.

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

**Giles Frampton
Sue Proudfoot
Becky Cox**

**Hamish Adam
Karen Quant**

**Ken Cole
Sam Bailey**