



Insolvency update

There are many further changes to the companies' legislation that took effect on 1 October 2009 that will be of interest to Insolvency Practitioners. These include changes regarding:-

- The disclosure of directors' (and others) home addresses
- Company records - in particular, changes to reflect the new regime regarding home addresses, changes to the "name" requirements for directors and company secretaries who are individuals and changes regarding the places where company records that are available for inspection can be kept and to the rules for inspecting such records.
- Dissolving and restoring a company to the register – in particular, the introduction of a single new procedure and time limit for restoring a company to the register by way of Court order, which is likely to have a significant impact on the number of MVLs going forward.

Insolvency Practitioners should be aware that in addition to the above changes, further consequential changes to both the Insolvency Act 1986 and the Company Directors' Disqualification Act 1986 also came into force on 1 October 2009. These changes essentially replace references in both Acts to provisions of the Companies Act 1985 with reference to the replacement provisions in the Companies Act 2006. Similarly, consequential changes to the Insolvency Rules 1986 and to some of the insolvency forms also came into force on 1 October 2009 (SI 2009/2472). The insolvency forms affected are:-

- Form 2.1B (administration: administration application)
- Form 3.8 (administrative receivership: notice of order to dispose of charged property)
- Form 4.2 (winding up: winding up petition)
- Form 4.5 (winding up: affidavit of service of winding up petition other than at registered office or on overseas company)
- Form 4.14 (winding up: petition by contributory)

Additionally, the following insolvency forms were also changed on 1 October 2009 to extend their application to warrants and the examination of persons in relation to debt relief orders under section 251N Insolvency Act 1986:-

- Form 7.8 (warrant of arrest etc under section 236/366 Insolvency Act 1986)
- Form 7.9 (order for productions of person arrested under warrant issued under section 134, 236, 364 or 366 Insolvency Act 1986)
- Form 9.1 (order under section 236/366 Insolvency Act 1986)

Finally, new disqualification rules were also introduced on 1 October 2009 (SI 2009/2471), which revoke and replace the existing disqualification rules. The new rules apply to any disqualification order made on or after 1 October 2009 and to any grant of leave or action taken by a Court after that date in consequence of which a disqualification order/undertaking (whenever made or accepted) is varied or ceases to have effect.

The new regulations are intended to consolidate the existing rules (SI 2001/967 as amended by SIs 2002/1834 and 2004/1940), albeit with some minor amendments. These amendments include changes necessary to reflect the new provisions in the Companies Act 2006 although other minor changes not related to that Act have also been made. In particular, there is a new Form DQO1 (the form filed at Companies House upon the making of a disqualification order against an individual) that reflects the new regime regarding the disclosure of directors' addresses.

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