



Insolvency update

Modernisation changes: amendments to Insolvency Act 1986 published

You will be aware from our previous bulletin on the Insolvency Service's modernisation and consolidation project that the remaining modernisation changes to the insolvency legislation are due to be implemented on 6 April 2010. Changes to modernise the insolvency-advertising regime are already in force (introduced April 2009).

As outlined in our earlier bulletin, the aim of these modernisation changes is to reduce the administrative burdens on users of the legislation, thereby reducing costs and increasing the dividends available for creditors.

Parliament has now passed the necessary changes to the Insolvency Act 1986 ("the Act") to give effect to the remaining changes, which are contained in the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010 (SI 2010/18) ("the Order") and which comes into force on 6 April 2010. We have attached a detailed note on the changes to the Act to this bulletin. Briefly, however, the Order effects the following changes to the Act in relation English and Welsh insolvencies (the changes do not necessarily apply to Scottish insolvencies):-

- Allowing creditors'/members' meetings to be held remotely (for example, via telephone/video conferencing) although creditors representing 10% in value of the creditors (or where appropriate, members representing 10% of the total voting rights) will have the right to request the office holder to specify a physical venue for the meeting instead of having arrangements for remote attendance only.
- Facilitating the use of electronic communication in the insolvency process (website, email etc)
- Removing the requirement for documents in insolvency proceedings to be verified by affidavit and providing for such documents to be verified instead by a statement of truth, thereby bringing the insolvency legislation in line with other areas of civil law
- Removing the requirement imposed upon a liquidator of a company in voluntary liquidation, where the liquidation continues for more than a year, to summon annual meetings of the creditors and/or members
- Making changes in relation to both non-interim order slow-track IVAs and fast-track IVAs to remove the current requirements to file reports with the Courts in cases in which the Court has, or has had, no role to play
- Removing the requirement for liquidators/trustees in bankruptcy to obtain sanction before exercising their power to compromise claims owing to the insolvent estate.

The Order is to be supplemented by changes to the Insolvency Rules 1986, which will also come into force on 6 April 2010. As well as dealing with the minor detail of some of the changes made by the Order, the amendments to the Rules will deal with other modernisation changes outlined in our earlier bulletin, not least the new regime for agreeing an office holder's remuneration. We understand that the amendments to the Rules have now been finalised and have been passed over to Parliament for approval.

Contact us

We shall let you have further details once Parliament has approved the changes but in the meantime, if you would like further information regarding any of the changes or if, for some reason, you did not receive a copy of our earlier bulletin, please contact:

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