

INSIDE INSOLVENCY



Changes to the Insolvency Rules

The 6 April 2017 saw the introduction of new rules which bring in significant changes to the way in which insolvency processes are conducted.

The last major rewrite of the insolvency rules was in 1986. The business landscape has changed considerably in the last 30 years, particularly in the way in which business communication is conducted and the new rules aim to address this as well as giving creditors of insolvent entities a choice in the degree of engagement they wish to have in the process.

The changes aim to consolidate existing legislation as well as bring in standardisation and the use of more modern language including gender neutral terminology. The new rules also

aim to give effect to policy changes resulting from deregulatory initiatives to cut red tape and reduce the costs of administering insolvency processes.

The changes being brought in will allow more widespread use of electronic communication and websites to make it easier for creditors to access information and to communicate with the Insolvency Practitioner (IP).

Instead of creditors' meetings being convened as a decision making process in a case, new decision procedures will

be adopted including a method of deemed consent where appropriate except where a specified proportion of creditors disagree. The new procedures also anticipate the use of virtual meetings and electronic voting.

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overleaf* ▶



Changes to the Insolvency Rules *continued*

Creditors will be able to choose to opt out of correspondence, except where that relates to payment of dividends, and the IP has the option to allow creditors with claims under £1,000 to claim without having to prove their debts.

There will also be restrictions on the filing of personal information for employees and

consumer creditors to avoid that information being in the public domain.

Overall the new rules are designed to modernise insolvency processes, making them more user friendly for all stakeholders as well as cutting some of the red tape and using simpler language. The rewrite also aims to future proof the rules as far as

possible which may reduce the need for future amendments. It is hoped that the streamlined process will result in reduced costs and better returns for creditors.

See our Technical Bite for a brief summary on what creditors need to know about the new procedures.

LATEST NEWS

The statistics on corporate and personal insolvencies for the whole of 2016 show that generally these are at their lowest levels for a number of years, although personal insolvencies had risen for the first time since 2010.

This mirrors our experience of current trends and we are increasingly seeing our work focusing on recovery, restructuring and advisory work.

We are able to assist businesses with organisational change, sourcing re-finance and hands on day to day advice in order to work through existing financial and structural difficulties. This increases the likelihood of entities avoiding entering the insolvency process while preserving jobs and creating growth. The profession has emphasised the roles of recovery, restructuring and advice for a number of

years and Insolvency Practitioners can bring a unique skill set to this role and this emphasis has contributed to the current increase in advisory work.

Our experience is echoed in a recent survey by our trade body R3 which found that restructuring has generally increased throughout the profession and this increase is attributed to greater awareness and a desire to avoid formal insolvency processes where possible.

The most important thing for any company or individual in these situations is to seek

advice early and in consultation with an IP find the right solution for them, their creditors and their stakeholders which in some cases may be restructuring and in others formal insolvency.

President of R3 Andrew Tate has stated "Insolvency and restructuring professionals provide a valuable contribution to the business world and to the wider economy, far beyond what might be traditionally expected of us. In these uncertain times, the expertise that we can offer will be more necessary and more valuable to clients than ever".

UPCOMING EVENTS



The Ensors' Advisory teams continue to host networking drinks events throughout the year in Bury St Edmunds, Cambridge, Huntingdon and Ipswich in addition to the Team of Experts seminars that are run throughout the Eastern region on a regular basis. If you do not already receive invitations and would like to come along to future events please contact Kristie Henry on **01473 220090** or email kristie.henry@ensors.co.uk

Mark Upton becomes Chairman of R3 Eastern Region

On 1 April, Mark Upton our head of Business Recovery and Insolvency became Chairman of R3 in the Eastern Region cementing his position as one of the leading turnaround and insolvency professionals in our region.

R3 is the body that represents the insolvency profession nationally and Mark's role is to lead R3 in the East and to promote and act as the spokesman for the profession locally. He will co-ordinate the views of the local membership in order that matters that impact upon financially distressed businesses and individuals are highlighted as we move towards a post Brexit world.

Mark is honoured and delighted to take over this role which he sees as further confirmation of the quality of the wider team at Ensors that continues to deliver first class advice and assistance to businesses and individuals facing financial difficulty.



TECHNICAL BITE

What are the main provisions affecting creditors in the new rules?

1. Meetings of creditors have been abolished unless creditors request that a physical meeting be summoned.
2. Many decisions during the life of an insolvency process will be made by deemed consent (e.g. if there are no objections the decision is deemed to have been accepted) and may take place either by correspondence, electronic voting or virtual meetings – the procedure to be adopted being at the discretion of the appointed Insolvency Practitioner.
3. In order to vote creditors must have submitted a proof of their claim.
4. If a creditor is owed less than £1,000 the Insolvency Practitioner may decide to accept their claim based on the information provided by the insolvent entity without requiring the creditor to submit a claim. If the creditor does not agree with the amount listed they should contact the IP and submit a proof of debt.
5. If the creditor has customarily communicated with the insolvent by email then the same method of communication is likely to be adopted by the IP.
6. Information supplied to the creditor will contain instructions as to how the creditor can engage with the process. Alternatively, the creditor may elect to opt out of communications however in any event if there is likely to be a dividend to creditors the IP must notify all creditors.
7. There is likely to be greater use of websites and electronic communication in engaging with creditors.

MEET THE TEAM

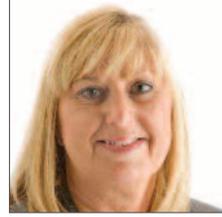
We have an experienced team of expert advisers who focus on turnaround and recovery strategies as the primary goal in any financially distressed situation. We will work closely with directors, funders, stakeholders and advisers in achieving the optimum solution. Insolvency options may need to be considered but unless there are compelling reasons to proceed with formal insolvency procedures, these are likely to be a last resort. We are always happy to have an initial free chat with individuals or companies.



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“Ensors’ Insolvency Team has been an excellent resource for our firm and clients for a number of years; offering free advice for the initial client meeting. They have been a great sounding board, have offered and provided us with good, clear and concise advice at critical moments for our clients. They are focused, friendly and very efficient in dealing with our clients in often distressing situations putting them at ease and their minds at rest and have carried on assisting them should they get into more serious bother.”

Craig Tyrrell, Tyrrell & Company

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This newsletter seeks to address general business and financial issues and we have taken due care in its preparation. Ensors cannot accept responsibility for loss incurred by any person, company or entity as a result of acting, or failing to act, on any material in this publication. Specialist advice should always be sought in relation to your particular circumstances. Ensors is the trading name of Ensors Accountants LLP and is registered by the Institute of Chartered Accountants in England and Wales. If you do not wish to receive this newsletter in the future, please contact Jane Newley on: 01473 220022 or email: jane.newley@ensors.co.uk

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