

Restructuring and Insolvency  
Case Law Update  
Rosling King LLP



As of 1 October 2015, a number of changes have been introduced to insolvency law in the UK with more to follow on 10 October 2015 and then in April 2016. The key developments implemented in October 2015 will affect both companies and individuals.

#### From 1 October Personal Insolvency

For the first time since 1986, the threshold for a debt that may found a bankruptcy petition has increased. The previous threshold allowed creditors to petition for bankruptcy for owing debts of just £750. However, this has been increased significantly to £5,000 as a result of the Insolvency Act 1986 (Amendment) Order 2015 (SI 2015/922). Bankruptcy proceedings will not be an option unless the debt in question is at least £5,000 and the legislation will encourage creditors to explore other debt collection methods before considering bankruptcy.

#### Regulation of Insolvency Practitioners ("IP's")

Changes to the Insolvency Rules have been enacted under the Insolvency (Amendment) Rules 2015 (SI 2015/443) which will limit the ability of IP's to charge fees to creditors on a time cost basis. This change has been implemented to increase creditor confidence in insolvency processes. Creditors must now be provided with binding fee estimates from the IP at the outset of the insolvency process and the change will effectively act as a cap on fees.

A new regime will allow for the partial authorisation of IP's under Section 17 of the Deregulation Act 2015. IP's can become authorised in relation to personal or corporate insolvency and all IP's will be authorised by regulated professional bodies.

There are also new rules in relation to the sanction of IP's, to ensure that regulators are held to account, including directing a regulator to take action and imposing financial penalties. The Oversight Regulator will be able to apply to the Court to directly sanction an IP where it is in the public interest.

If the new regulatory reforms fail to build confidence in the industry, the government has reserved its power under Sections 144 to 146 of the Small Businesses, Enterprise and Employment Act 2015 ("SBEEA 2015") to establish a single insolvency regulator, if necessary.

#### Directors' Disqualification

Part 9 of the SBEEA 2015 introduces new provisions in relation to the disqualification of directors, including where a director has been convicted of a company related offence overseas and where they have instructed a disqualified director. Further, when considering an application for a directors' disqualification, the Court must now consider the nature and context of the harm the director's misconduct and the director's previous history in relation to failed companies.

Under paragraph 11, schedule 6 of the Deregulation Act 2015, on the application for a directors' disqualification, there will be a power to require information. The new legislation introduced will generally only apply to a director's conduct where it has occurred on or after 1

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**Changes coming into effect on 10 October 2015**

**Reduction in Notice Period for Strike-Off**

New legislation will come into force on 10 October 2015 under Section 103 of the SBEEA 2015, which shortens the current notice period dictated under The Companies Act 2006 for the Company of Registrars to strike-off a company from the Register. The notice period will be reduced to 2 months from the date that the Notice was placed in the Gazette.

For further information, please contact [Simon Hough](#) or the Partner with whom you usually deal.