Mackrell Turner Garrett

FOCUS ON
INSOLVENCY PRACTITIONERS

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Welcome to Mackrell Turner Garrett's Focus On Insolvency Practitioners, our quarterly bulletin focusing on insolvency-related news and developments and how Mackrell Turner Garrett's services can be of assistance.

If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact James Atton at our London office on **00 44 (0) 207 240 0521** or at **james.atton@mackrell.com** or John Dudley at our Woking office on **00 44 (0) 1483 755609** or at **john.dudley@mtg.uk.net**

BANKRUPTCY THRESHOLD TO RISE TO £5,000

The UK insolvency regime is to undergo one of the biggest changes in almost 30 years with a substantial increase in the debt level that can trigger bankruptcy.

Business Minister Jo Swinson announced on 15 January that the minimum level of debt for which a creditor can force a person into bankruptcy is to rise from £750 to £5,000. The limits were last revised in 1986.

The Insolvency Service sought views from the insolvency sector and other interested parties on the threshold last year in a consultation that also examined debt relief orders (DROs).

Respondents said the £750 debt level was too low to trigger bankruptcy when there were other ways to recover money, such as through the small claims court or attachment to salaries.

Ms Swinson also announced further reforms, raising DRO limits to £20,000 and increasing DRO asset limits to £1,000, plus a vehicle worth not more than £1,000.

Giles Frampton, president of insolvency trade body R3, said: "The rise in the creditor bankruptcy petition threshold is welcome, although £5,000 is far higher than expected. £750 was an entirely inappropriate level and the protection it offered debtors had been steadily eroded by inflation over the last three decades.

"The rise in the petition threshold will require creditors to look at other options for the pursuit of low value debts. While a bankruptcy petition is not always the most proportionate tool for this, it's very important that the insolvency regime maintains a balance between protecting the interests of both debtors and creditors."

The changes will undergo Parliamentary scrutiny before coming into force in October 2015.

Mackrell Turner Garrett partner James Atton, a specialist in insolvency, said: "We are experienced in personal insolvency and are ideally placed to provide additional support and advice to insolvency practitioners working on these assignments.

"We provide support to IPs across a whole range of insolvency issues and as a full service law firm, we also offer integrated advice across a wide range of relevant legal specialisms. For more information, please contact us."

1 IN 3 DIRECTORS 'REPORTED IN INSOLVENCIES'

Directors in 30 per cent of insolvency cases were investigated over their conduct in the last financial year, new figures show.

Research recently released by accountancy firm Moore Stephens revealed that in 15,412 business insolvencies examined by insolvency practitioners in the 12 months to 30 March 2014, directors at 4,671 companies were reported for potential misconduct.

The Insolvency Service started disqualification proceedings against 1,273 directors over the same period, 27 per cent of those reported for investigation. In 2012-13, the figure was 19 per cent.

Moore Stephens partner Mike Finch said: "These figures show just how frequently insolvency practitioners are finding evidence that points towards serious misconduct by directors. These are cases where there is strong evidence that a company director has broken the rules to the detriment of creditors like lenders, suppliers and HMRC."

James Atton said: "Mackrell Turner Garrett can provide expert legal advice to insolvency practitioners on corporate insolvency issues including directors' duties and director disqualifications and litigation in these areas.

"Other areas where we can assist include pre-pack administrations, antecedent transactions, asset investigation and recovery and the re-use of names in insolvent company situations. For more information, please contact us."

'RESCUE AND RECOVERY' DRIVES NEW EU INSOLVENCY RULES

A "rescue and recovery" approach to insolvency designed to give viable businesses a second chance when facing financial difficulties cross-border has been agreed by European Union justice ministers.

Modernised rules agreed on 4 December are intended to make it easier for businesses to restructure and for creditors to get their money back, as well as ensuring that procedures for cross-border insolvencies are effective.

EU Justice Commissioner Věra Jourová said: "Every year in the EU, 50,000 companies are faced with cross-border insolvency proceedings – equating to one in four of all insolvency proceedings in the EU. The new rules will give viable businesses a much-needed second chance." Under the new regime:

- rules will be extended to cover an additional 19 national commercial and personal insolvency mechanisms
- if a debtor relocates shortly before filing for insolvency, the court will examine the case to ensure the relocation is genuine
- businesses, creditors and investors will have easy access to national insolvency registers on the European e-Justice Portal
- increased efficiency for insolvency proceedings involving different members of a group of companies will enhance the chances of rescuing the group as a whole.

The new Insolvency Regulation will replace the former European Insolvency Regulation which has applied since 2002. It is scheduled to be adopted by the European Council in March and the European Parliament in April or May 2015 and come into force 24 months later.

James Atton said: "Our firm is ideally placed to support insolvency practitioners involved in cross-border assignments, both in the European Union and further afield.

"Alongside our in-house insolvency and legal expertise, we are a member of Mackrell International, giving us access to the knowledge of 60 law firms worldwide, including in North America, Africa, South America and the Asia Pacific region. For more information about our services, please contact us."

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