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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

CLARITY NEEDED ON NO WIN, NO FEE DEALS, SAYS R3 CHIEF

The Conservative government should grant insolvency practitioners the freedom to use no win, no fee agreements in insolvency litigation on a permanent basis, the head of R3 says.

Writing on the British Chambers of Commerce website, R3 president Philip Sykes said that the insolvency profession needed to work with the business community on a number of issues to ensure the insolvency regime continued to meet the needs of creditors and debtors.

He added: "Principal among these is the need to press government for a decision on insolvency litigation, as part of the 2012 Legal Aid, Sentencing and Punishment of Offenders Act".

In February, the government announced that insolvency practitioners could continue to use no win, no fee agreements beyond April 2015, which was the original cut-off point for such arrangements in insolvency proceedings under the Act.

In the announcement the government said it would consider the "appropriate way forward for insolvency proceedings" and set out further details later in the year.

Mr Sykes said: "It is absolutely vital that the government takes the side of creditors on this: not only would making the exemption permanent be a financial boost to businesses that depend on money being repaid after insolvencies, it would send a message to those directors

tempted to hold onto money that does not belong to them."

Mackrell Turner Garrett insolvency specialist James Atton said: "Clarity from the government over the future of no win, no fee agreements would be welcomed by both insolvency practitioners and creditors.

"Whatever the outcome may be, as a law firm experienced in working with insolvency practitioners, Mackrell Turner Garrett is ideally placed to provide any legal support necessary in insolvency proceedings, including those with an international dimension, through our membership of Mackrell International, which gives us access to the knowledge of 4,500 lawyers in 60 countries worldwide. For more information, please contact us."



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IPS HELP TO SAVE 230,000 JOBS

Insolvency professionals helped more than two in five businesses to carry on trading last year – saving more than 230,000 jobs.

New research carried out by ComRes and insolvency trade body R3 showed that its members helped around 6,700 businesses (41 per cent of formal insolvencies) to continue trading in some way after entering insolvency.

In total, insolvency professionals assisted around 10,400 businesses to avoid insolvency or to benefit from a formal insolvency arrangement.

The profession also advised around 135,000 people about their personal finances, helping them to repay around £5 billion to creditors over the next five years.

Mackrell Turner Garrett's James Atton said:

“As a law firm experienced in working with insolvency practitioners, we are ideally placed to provide additional support and advice to insolvency practitioners working on corporate and personal assignments.

“Alongside our expertise in insolvency law, as a full service law firm we can offer integrated advice across a wide range of relevant legal specialisms. For more information, please contact us.”

NEW FEES REGIME COMES INTO FORCE

A new regime for insolvency practitioner fees has come into force at the start of October, marking a significant change in the profession's remuneration process.

Existing remuneration methods – on a time-cost basis, as a percentage of realisations or as a fixed sum – have remained unchanged for a number of years.

However, as of 1 October 2015, insolvency practitioners must now

provide an estimate of fees and expenses to all creditors where time-cost remuneration is involved.

Under the new rules, insolvency practitioners must also get creditors' approval to charge more than their original fee estimate.

Where time-cost is not the basis of remuneration, the insolvency practitioner must provide details of proposed work and an estimate of

expenses, for creditors' information.

While the new regime has been introduced following industry consultation, and has been welcomed in improving transparency, insolvency practitioners may find it helpful to have access to expert legal advice, for example where creditors resist agreeing to an increase in fees where this is necessary to allow them to fulfil their role. For more information on how Mackrell Turner Garrett can help, please contact us.

BANKRUPTCY THRESHOLD INCREASES

As of 1 October the threshold at which creditors can petition debtors for bankruptcy has risen from £750 to £5,000.

This limit marks the amount of debt over which an individual can be made bankrupt and was last changed in 1986 – nearly three decades ago.

Under the measure, the government has increased the limit to make it more difficult to bring bankruptcy proceedings against people with a small debt and has been seen as an attempt to prevent creditors

from using the threat of bankruptcy to pressure debtors into paying.

The new move will mean that in order for a creditor to collect a debt of less than £5,000 they will have to obtain judgment via the small claims court.

If the debtor still refuses to pay following a ruling in the small claims courts then creditors may have to recover their debts by way of a charging order, a third party debt order, an attachment of earnings order or by requesting the assistance of bailiffs.

This month will also see an increase in the maximum debt level at which people can apply for a debt relief order, from £15,000 to £20,000 and the asset level from £300 to £1,000. Meaning those with larger debts will be able to receive greater assistance when rebuilding their finances.

If your client requires assistance with bankruptcy proceedings or finds themselves pursuing, or being pursued for small debts, through the small claims courts, please contact us.



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