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Newman & Partners

Licensed Insolvency Practitioners

FOCUS ON INSOLVENCY BULLETIN

Welcome to the latest issue of our Focus on Insolvency Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. 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 us on **020 8357 2727** or at **insolvency@newmanandpartners.co.uk**

R3 express worry over government decision to go ahead with partial licensing plan

The government's decision to include proposals for 'partial licences' for insolvency practitioners in the Deregulation Bill risks confusing businesses seeking advice and will add more red tape to the profession, says the insolvency trade body, R3. The Deregulation Bill received its first reading in parliament in January and a second reading in February. Partial licensing will introduce two new types of licence to allow insolvency practitioners (IPs) to work on either purely corporate or purely personal insolvency cases.

Giles Frampton, R3's vice-president says: "Partial licences do not belong in a Deregulation Bill. They will add regulatory burdens to firms and regulators who have to ensure their IPs are compliant with an already complicated regulatory structure. This is likely to increase rather than decrease costs." The profession is also concerned that partial licences will make it harder for entrepreneurs – many of whom will have given personal guarantees or other undertakings to secure business funding – to receive appropriate and comprehensive advice from IPs.

Mr Frampton says: "It's difficult for an IP to judge if the case is purely corporate or personal until they have actually been appointed. Only a thorough examination by a fully qualified IP will properly identify the issues. Because knowledge of both corporate and personal insolvency matters is frequently necessary when advising clients, the savings may prove to be illusory. Alternatively if the training is limited, the advice is likely to be correspondingly restricted. Either way it will be financially struggling businesses and individuals that lose out."

A consultation on partial licences was also launched shortly after the proposals were put to the House of Commons. R3 is concerned that the government's consultation on partial licences has been launched after the publication of the Bill.

At Newman and Partners Insolvency our experts are fully qualified to advise on both corporate and personal insolvency cases. For further information about the guidance we can offer in all insolvency matters, please contact us.

Personal insolvencies at 8-year low

Recent figures from the Insolvency Service show that personal insolvencies fell to their lowest level in eight years in 2013, with just over 100,000 people becoming insolvent. This was an 8 per cent decrease from 2012.

For the first time last year, individual bankruptcies were overtaken by debt relief orders (DROs). It is suggested that this could be due to the fact that bankruptcy is an expensive process, while DROs, which were first introduced in 2009, are a cheaper option aimed at people with debts of less than £15,000 and lower incomes.

Bankruptcies fell to 24,536 in 2013, 22.8 per cent lower than the 2012 figure and there were 27,546 DROs, which were down 11.7 per cent on 2012, while 48,967 people entered Individual Voluntary Arrangements (IVAs), up 4.9 per cent on 2012. An IVA is a legal agreement between someone in debt and their creditors to pay back the money over a specified period of time.

However, although the figures paint a better picture, analysts have warned that they fail to show the full extent of individuals in the UK struggling with debt and insolvency. A spokesman for R3 highlighted the fact that debt management plans (DMP) were not included in the Insolvency Service's figures and argued that many insolvent individuals, who cannot enter bankruptcy, an IVA or a DRO for various reasons, enter a DMP instead. He added that personal insolvency levels were still "astronomically high" compared to recent decades. Meanwhile, the number of companies going into bankruptcy fell by 7.3 per cent to 14,982, the lowest figures since 2007, although still considerably higher than they were before the financial crisis.

It is always recommended that expert advice should be obtained in all insolvency matters as soon as difficulties arise. At Newman and Partners Insolvency, we can provide workable solutions for both individuals and businesses. For more information, please contact us.

Proposed insolvency reforms could impact on creditors

According to business recovery body R3, the government proposals on insolvency reforms could see creditors lose out when firms fail, as the suggested changes would see limitations placed on insolvency practitioners' ability to charge by the hour for their work, with fees instead being based on a percentage of property dealt with or realised, or as a fixed-fee. Such arbitrary measures as these are not always compatible with the unpredictable nature of insolvency work and ultimately may impact on creditors, R3 added.

The recently published consultation document on insolvency practitioner fees included proposals for changing the way insolvency practitioners' fees are calculated in the absence of an engaged secured creditor from the fees-setting process. Although R3 welcomes the proposals for improving regulatory oversight of fees and for boosting information for creditors, it also expects unwanted consequences and that it would be the UK's creditor community that will lose out should the new proposals be implemented.

The government's own report agrees that the market for insolvency practitioner fees only works when creditors engage with the process, as with secured creditors. That being so, its focus should be on boosting unsecured creditor engagement, and it should avoid experimenting with the basic fee-setting mechanisms.

R3 believes that in order for these proposals to work, additional and somewhat cumbersome safeguards would need to be built into the fees market to provide flexibility for creditors and insolvency practitioners. This would defeat the point of changing things in the first place and could even have a detrimental effect on the UK's ranking as the world's 7th best insolvency regime.

Newman and Partners Insolvency can provide tailored solutions for both businesses and individuals who may be at risk of insolvency. For more information, please contact us.

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