

# Changes to the UK insolvency regime

This is a summary of some of the recent and upcoming changes to the insolvency rules and the provisions introduction by the Small Business, Enterprise and Employment Act 2015.

## Changes from 26 May 2015

### Voluntary Arrangements

Fast track Voluntary Arrangements have been abolished.

### Requirement for sanction

Office holders are no longer required to seek sanction before exercising certain powers in liquidations and bankruptcies. These include the power to pay any class of creditors in full, bringing or defending legal proceedings on behalf of a company, and bringing claims in relation to transactions defrauding creditors.

### Proving your debt

When a creditor's debt is below £1,000 in the statement of affairs, they no longer need to submit a proof of debt form for the purposes of a dividend payment. The office holder can rely on the information provided by the company to ascertain the validity of the debt.

### Individual Voluntary Arrangements

Challenges to the approval of an IVA, based upon a material regularity or unfair prejudice, must now be made within 28 days.

### Extensions to administrations

Creditors may now extend an administration for up to a year rather than six months.

## A look back at October 2015

### Fee estimates

Office holders are now required to provide upfront fee estimates to creditors in administrations, voluntary liquidations and bankruptcies. Should the estimate be exceeded, further approval from creditors will need to be sought.

### Director disqualification

The time period to apply to court for director disqualification of an insolvent company was increased from two to three years. The Secretary of State can now seek a compensation order against a disqualified director where their misconduct has caused specific loss to one or more creditors.

## Upcoming changes – Expected to arrive 1 October 2016

### Creditors meetings

Creditors meetings are to be replaced by a new system of 'deemed consent', whereby physical meetings will be substituted for electronic voting or 'virtual' meetings, if requested. The office holder will write to creditors with a proposal and if 10% or less of creditors object, the proposal will be deemed approved.

### Correspondence

Creditors will be able to opt-out of receiving further correspondence from the office holder once an appointment has been made, unless it relates to payment of a dividend.

### Final meetings

Final meetings will be abolished, although a final account of the insolvency process will continue to be circulated. Creditors will still be able to object to the release of the office holder.

### Rights of action

Office holders will be permitted to assign rights of action in respect of transactions at an undervalue, preferences, fraudulent trading, wrongful trading and extortionate credit transactions.

### Bankruptcies

The Official Receiver will automatically be appointed as trustee on the making of a bankruptcy order.

### Winding-up petitions

Issuing a winding-up petition will no longer prevent the appointment of an administrator by the company or its directors, as long as the petition was presented whilst an interim moratorium was in place.