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TECHNICAL UPDATE

Administration, fixed charge assets & remuneration agreed

In the case of [Pagden v Ridgley \[2024\] EWHC 3047 \(Ch\) \(28 November 2024\)](#) the court determined that it had “no power under R18.34 to review or determine the costs and remuneration of an administrator where they have been expressly agreed with the holder of a fixed charge security in respect of the realisation costs of that security, payable from the proceeds of its sale.”

Administrations & the Financial Sanctions Regime

In the case of [KRF Services \(UK\) Ltd, Re \[2024\] EWHC 2978 \(Ch\) \(26 November 2024\)](#) the court determined that it was appropriate to appoint Administrators based on a licence application to the OFSI being made or having already been made, and creditor pressure. The IPs also provided various undertakings to the court in respect of complying with the financial sanctions regulations.

Special Administration, Trust Money & Litigation

In the case of [Wealthtek LLP \(In Special Administration\), Re \[2024\] EWHC 3050 \(Ch\) \(28 November 2024\)](#) the court had stated in an earlier judgment that they would not approve a litigation fund using trust monies held, which should be returned to

the clients. Further information was presented to the court in respect of the FSCS status as having subrogated claims and the FCSC duty under s213(1) of the Financial Services and Markets Act 2000, which is set out in the Compensation Sourcebook within the FCA Handbook (COMP); in particular, COMP 7.3.8. and 7.4 which obliged the FCA to pursue recoveries. The judge made clear that the cost of any litigation fund should be met by the FCSC and not be paid from the trust monies held by the Administrators and that only fees directly relating to the distribution of those funds should be deducted from the trust funds.

Sanctions Regime amendments

[The Sanctions \(EU Exit\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024](#) some of which came into force on 5 December “creates a new insolvency licensing purpose. This will allow OFSI to license various payments and other activity made in relation to insolvency, restructuring and related proceedings, provided that any payments made directly or indirectly to a DP are credited to a frozen bank account”.

Amendments to Bond Regime

[The Insolvency Practitioners \(Amendment and Transitional Provisions\) Regulations 2024](#) came into force on 1 December 2024, increasing the general penalty sum to £750,000, adding

the ability to claim interest and reasonable costs of successor IPs where an IP has lost their licence and claims need to be made under the bond.

Access to Companies House information for IPs

[The Information Sharing \(Disclosure by the Registrar\) Regulations 2024](#) came into force on 20 December 2024 and the Registrar of Companies is now able to disclose information to insolvency practitioners.

Insolvency England & Wales

[The Employment Rights \(Increase of Limits\) Order 2024](#) came into force on 6 April 2024.

[Insolvency Proceedings \(Monetary Limits\) \(Amendment\) Order 2024](#) and [The Insolvency \(England and Wales\) \(Amendment\) Rules 2024](#) both came into force on 28 June 2024.

[The Insolvency Practitioners and Insolvency Services Account \(Fees\) \(Amendment\) Order 2024](#) came into force on 31 December 2024.

[The Insolvency Proceedings \(Fees\) \(Amendment\) Order 2024](#) comes into force on 9 January 2025.

EU retained law

[The Retained EU Law \(Revocation and Reform\) Act 2023 \(Commencement No. 2 and Saving Provisions\) \(Revocation\)](#)

[Regulations 2024](#) came into force on 18 September 2024.

Land Registry fee changes

[The Land Registration Fee Order 2024](#) and [The Land Charges Fees Rules 2024](#) came into force on 9 December 2024.

Northern Ireland

[The Insolvency \(Monetary Limits\) \(Amendment\) Order \(Northern Ireland\) 2024](#) came into operation on 8 July 2024.

[The Insolvency \(Amendment\) Rules \(Northern Ireland\) 2024](#) comes into force 10 January 2025

Insolvency Scotland

[The Protected Trust Deeds \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024](#) came into force on 1 July 2024. Guidance notes produced by the AiB have been updated to reflect the changes and may be found [here](#).

[The Bankruptcy and Diligence \(Scotland\) Act 2024](#) received royal assent on 15 July 2024, however not all provisions have come into force yet, although some will be coming into force on 20 January 2025: [The Bankruptcy and Diligence \(Scotland\) Act 2024 \(Commencement No. 1, Transitional and Saving Provisions\) Regulations 2024](#).

[The Moveable Transactions \(Register of Assignations and Register of Statutory Pledges Rules\) \(Scotland\) Regulations 2024](#) comes into force on 1 April 2025.

Pilot Practice Note: Transfer of Work

The [Pilot Practice Note \(revised\): Listing and Criteria for Transfer of Work \(2024\)](#) will come into

force on 1 April 2025 until 31 March 2026 and relates to the transfer of work between the Royal Courts of Justice and the County Court Central London.

Review of PESAR

HM Treasury has commissioned an [Independent Review of the Payment and Electronic Money Special Administration Regime \(PESAR\)](#).

Secured creditors and ADM extensions

Some interesting case law in 2024 has challenged the Insolvency Service's interpretation of secured creditors, especially where payment in full has occurred. [R3 have sought clarification from the Insolvency Service on this issue](#).

Non-occupational pension schemes

[R3 sought clarification on non-occupational pension schemes from the Redundancy Payments Service](#). It was confirmed that where there is no TUPE transfer they will be treated in the same way as personal pensions under S124(1) of the Pensions Act 1993, provided the company is in a formal insolvency process and there remain unpaid relevant contributions.

Insolvency Guidance Papers

The following changes to the Insolvency Guidance Papers have occurred:

- Bankruptcy - The Family Home: withdrawn 1/8/2024
- Retention of Title: withdrawn 1/8/2024
- Systems for control of accounting and other business records: withdrawn 1/12/2024

- [Succession Planning](#) revised 1/8/2024
 - [Control of Cases](#) revised 2/12/2024
 - [Dealing with Complaints](#) issued 1/10/2009
- We have produced a [webinar](#) for clients covering this.

HMRC Guidance

HMRC have had a busy year issuing guidance in the following areas:

- [Insolvency Practitioner appointments mailbox \(19 December 2024\)](#)
- [Specified Charges in Insolvency \(28 October 2024\)](#)
- [Confidentiality and disclosure in personal insolvencies \(28 October 2024\)](#)
- [Digital Platform Reporting Service \(21 October 2024\)](#)
- [Members' Voluntary Liquidation, Updates \(18 October 2024\)](#)
- [Insolvency Customer Services Mailbox \(3 October 2024\)](#)
- [Update - The introduction of Digital Journey for Plastic Packaging Tax in the event of Insolvency \(30 September 2024\)](#)
- [HMRC Scam Advice \(August 2024\)](#)
- [Postal Addresses \(28 August 2024\)](#)
- [VAT Insolvency Only Mailbox \(19 June 2024\)](#)
- [Process for directors' loan accounts written off in corporate insolvency procedures \(24 April 2024\)](#)

Dear IP

The latest Dear IPs are now available: [Dear IP 163](#), [Dear IP 164](#), [Dear IP 165 special edition](#), [Dear IP 165 Pro Forma Notification to LAs and Dear IP 165 Pro Forma Notifications to Fire and Rescue](#)

R3 Guidance: Setting yourself up in Practice

R3 have issued [guidance](#) on matters that need to be actioned if setting yourself up in practice.



Joanne Harris has over 25 years' experience in insolvency dealing with all case types. She was formerly a Director of Technical and Compliance in a top 20 firm before starting her own business to supply technical services for insolvency practitioners without a compliance resource.

Joanne is also a partner of both The Compliance Alliance and JOH Consultancy which offer a range of services that may be tailored to an individual IP's

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