



A round-up of recent regulatory and legislative developments – the pre-pack pool, new SIP 16, insolvency litigation and the Insolvency Rules

The past two months have seen a further plethora of regulatory and legislative changes. We sum up some of the more significant ones.

Pre-pack pool open for business

The long-expected pre-pack pool, the principal outcome of Theresa Graham's report into pre-pack administrations, opened to applications on 2 November 2015. The pool is relevant where a pre-pack sale to a party connected to the insolvent company is contemplated. Applications can be made online via www.prepackpool.co.uk - the pool will assess the evidence provided and confirm one the following:

- The pre-pack is not unreasonable.
- The case for a pre-pack is not unreasonable but there are minor limitations in the evidence provided.
- The case for pre-pack has not been made out.

The pool is operated by Pre-pack Pool Limited and each application will cost £800 plus VAT.

New SIP 16

Linked to the pre-pack pool, a new **SIP 16** also came into operation on 1 November 2015. The revised SIP aims to increase public confidence in pre-pack sales and implements to key recommendations from Theresa Graham's report. In particular, the SIP requires a narrative explanation of all steps that were taken in respect of the sale, the alternatives that were considered, and an explanation of any deviations from certain essential steps.

Key features of the new SIP include details of preparatory steps which the IP needs to take in advance of a sale (including a reminder that the IP is not advising the connected parties, who should take independent advice), a requirement for details of the source of the initial introduction to the insolvency practitioner, a requirement for the provision of enhanced details regarding valuations relied on, disclosure

of any security taken by the administrator in respect of deferred consideration and the inclusion of new standards to which any marketing processes should conform.

Insolvency litigation exemption to the Jackson reforms to end in April 2016

In a ministerial **statement** on 17 December 2015, the government announced that the Jackson reforms to litigation funding would apply to insolvency proceedings from April 2016. This will remove the availability of success fees in conditional fee agreements and after-the-event insurance for insolvency litigation matters.

Previous campaigning (by R3 in particular) was successful in obtaining an indefinite extension for the insolvency exemption to the Jackson reforms, however the government has confirmed that there will be a post-implementation review of the reforms between April 2016 and April 2018.

Substantial reform to the Insolvency Rules on the way

It is expected that the revised Insolvency Rules will be finalised in April 2016 with an implementation date of 1 October 2016.

This process started on 26 September 2013, when the Insolvency Service (IS) published its **Consultation, Insolvency Rules 1986 – modernisation of rules relating to insolvency law** and a working draft of the Insolvency Rules 2015 (IR 2015). A revised draft was published on 27 March 2015 and a further draft was published on 22 July 2015 (renaming the new rules as the Insolvency Rules 2016).

The principal changes introduced by the new Rules are:

- structural, format and linguistic changes to improve navigation and understanding of the provisions;
- new provisions to simplify insolvency procedures and reduce the costs incurred in insolvency assignments (such as the removal of physical creditors' meetings as the default

option and the introduction of alternatives, abolition of final creditors' meetings, reforms to creditors' committees, an opt-out of further communications process, creditor communications via websites, reforms to claims and voting rights, and clarification around provable contingent debts);

- amendments and revisions to create consistency across insolvency procedures and to provide greater clarity; (iv) deletions and removal of provisions and wording considered unnecessary or inaccurate.

The latest draft submitted to the Insolvency Rules Committee on 23 July can be viewed [here](#).

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