

# View from the UK: A busy Autumn



Duncan Swift looks at the latest legislative and policy developments in the UK

**While last year's parliamentary agenda was, for the profession at least, dominated by the Corporate Insolvency and Governance Act and the return of Crown Preference, 2021's has contained a number of different policy proposals that could affect the profession.**

In the run up to the Summer recess, three of them progressed, with one continuing its journey to the Statute Book.

## Strengthening trust in corporate governance

The Government is reviewing responses to its 'restoring trust in audit and corporate governance' consultation, that aims to strengthen the framework for how major companies are run and audited in the UK, and build on recommendations made by three independent reviews from 2018.

The outcomes from this policy development could make significant changes to how the largest businesses in the UK are run, so while it is less critical for insolvency and restructuring, it's an important one for the UK and its reputation as a good place to do business.

With the incoming Audit, Reporting and Governance Authority (ARGA) set to be given powers to investigate and sanction directors of public interest entities, effective cooperation with the Insolvency Service, which will retain its director disqualification responsibilities, will be critical to prevent a fragmented approach to the monitoring and enforcement of directors' adherence to their duties and responsibilities.

Of equal importance will be collaboration between these two organisations and the profession – so directors understand the importance of seeking advice as early as possible, and are aware of their roles and responsibilities.

## Reviewing the rules

Another area the Government has recently consulted on is its review of the Insolvency Rules. The landscape has changed significantly since these were introduced in 2017, and there are several modifications we'd like to see made to reflect changing demands on the profession.

For instance, simplifying the requirements of what insolvency practitioners are required to include in progress reports would make it easier for creditors to identify what work has been carried out and whether the reports made are accurate.

In addition to this, introducing discretionary powers for insolvency practitioners to call physical meetings where necessary would save creditors time and money by reducing the need for postal communications, and enable IPs to better carry out their duties.

And, clarifying the rules around the involvement of secured creditors once they've been paid would bring these rules into line with the approach for engaging with unsecured ones, and further improve overall creditor engagement.

Alongside these modifications, the introduction of additional guidance to help new professionals, creditors, or those less familiar with the Rules to navigate them would be helpful,

particularly since the "common parts" have been expanded.

## Increasing scrutiny of company dissolution

The Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill, published in June, contained proposals to close the loophole preventing directors of dissolved companies from facing the same level of scrutiny as those directors whose firms are closed through a solvent or insolvent liquidation.

This is positive news and should help to deter directors from using dissolutions to avoid scrutiny and liabilities. However, the Government has yet to clarify how the investigation and prosecution of these directors will be funded, and how insolvent dissolution returns to the wider body of creditors – not just the Exchequer – will be secured.

We have also reiterated our calls for the Government to reduce the cost and improve the ease with which dissolved companies can be returned to the companies register, as this will be crucial in enabling their assets to be realised for their creditors.

The next step in the Bill's legislative journey is the report stage in the House of Commons in September. It will be interesting to see how the Government will address these and other issues with the proposed legislation, any suggested amendments to it – and to see how it responds to the submissions to the other consultations which closed in the summer. ■



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