



The Insolvency Service

Money Advice Liaison Group: July 2017: Update from The Insolvency Service

Official Receiver Services (ORS) update

Case numbers – Quarter 1 stats release 28 April 2017

Compulsory liquidations: A total of 836 companies were subject to compulsory liquidation in Q1 2017, a 3.3% increase on the previous quarter and 2.8% higher than Q4 2016.

Bankruptcy Orders:

In Q1 2017 there were 3,873 bankruptcies, an increase of 1.3% on 2016 Q4 and an increase of 3.7% on 2016 Q1.

In Q1 2017, 2,987 bankruptcies were made on the petition or application of the debtor, which was 2.6% higher than the previous quarter and 13.8% more than the same quarter in 2016. This year on year rise is likely to be due to a change to the process for people making themselves bankrupt, which has removed the courts from the process.

There were 852 creditor petition bankruptcies in Q1 2017, which was 11.1% lower than the previous quarter but 20.0% lower than the same quarter in 2016. This year on year decrease in creditor petition bankruptcies is likely to be linked to a change in the minimum debt a creditor must be owed to make someone bankrupt, which increased from £750 to £5,000 for petitions presented from 1 October 2015.

Debt Relief Orders:

There were 6,119 DROs in Q1 2017. DROs decreased by 2.0% compared with Q4 2016 and also decreased by 9.0% compared with Q1 2016 – this was the third successive quarterly decrease, and the lowest number of DROs since the change to eligibility criteria was introduced in October 2015 with DROs becoming available to people with up to £20,000 debt (up from £15,000) and £1,000 assets (up from £300).

Next release 28 July 2017

Fees charged on Annulment of a Bankruptcy order

The Insolvency Proceedings (Fees) Order came into force on 21 July 2016 and all cases where the bankruptcy and winding up applications petitions were presented on and after that day are subject to the new fee structure. Stakeholders have sought clarification of the Official Receiver's position regarding costs in annulment applications and the Insolvency Service has reviewed the fees that are charged when bankruptcy orders are annulled.

Annulments may fall into three areas – (i) the order ought not to have been made (ii) payment in full of the bankruptcy debts and the expenses (iii) a proposed individual voluntary arrangement.

When an annulment order is made on the grounds that it ought not to have been made then it will have the effect of setting aside the bankruptcy order on the basis it should not have been made in the first place. The Official Receiver will be continuing with the approach of only seeking his/her costs in these cases on a time and rate basis, along with actual disbursements. The new fee structure includes the general fee (£6,000) which is not specifically related to the actual cost of the case. The Official Receiver will not seek the general fee in cases where the order ought not to have been made.

When the bankruptcy order is validly made, the fees set out in the Fees Order flow automatically. The new fee structure does not allow for discretion to apply anything other than the full administration fee and the full general fee when a bankruptcy order is annulled on the basis that the debts and the expenses have been paid in full. These are statutory fees agreed by Parliament. The amount of work carried out in the insolvency and the time that has elapsed since the insolvency order are not material to the charging of the fees.

When the annulment follows a post-bankruptcy order IVA, the Official Receiver will always seek the full administration and general fees as per the Fees Order.

Any feedback on operational delivery by Official Receiver Services invited

Investigation and Enforcement Division (IES) Update

Enforcement Outputs

Details of press notices covering our enforcement action can be found at:

<https://www.gov.uk/government/announcements?departments%5B%5D=insolvency-service>

Our enforcement results are published monthly as official statistics and can be found at:

<https://www.gov.uk/government/collections/insolvency-service-official-statistics#statistics-published-2017>

Headline figures for the two months ending 31 May 2017:

Director disqualifications:

- 161 director disqualifications were obtained:
 - the average period of disqualification was around six years
 - around 7.5% of directors were disqualified for a period in excess of 10 years, with some 51% disqualified for a period longer than 5 years
 - for every company director that we disqualify, we have saved creditors from losing around £114,000

Trading company investigations:

- 12 investigations carried out following receipt of complaints or other intelligence:
 - 21 companies were wound up in the public interest (with a number of others currently before the Courts)
 - 6 disclosures were made to other regulators

Criminal prosecutions:

- 61 criminal referrals for prosecution, the majority to Criminal Enforcement:
 - 21 defendants successfully prosecuted during the two months to May 2017, resulting from referrals made by the agency

Bankruptcy & Debt Relief Order Restrictions:

- 57 restrictions secured:
 - the average period of restriction was 5 years
 - around 30% of restrictions were for over 5 years

We continue to focus upon enforcement outcomes in our stakeholder newsletters. We also continue to report the result of successes achieved with the assistance of insolvency practitioners and/or other agencies/regulators in Dear IP.

Disqualifications

- Recent disqualification results include:
 - The director of a company that operated eight Chinese restaurants in London was disqualified for seven years for employing illegal workers and failing to pay monies due to HM Revenue and Customs.
 - The director of a Middlesbrough company was disqualified for seven years for failing to maintain, preserve and deliver up accounting records that explain the financial position of the company.
 - The director of a used car dealership in Ayrshire has been disqualified for seven years for causing the company to trade in a manner that breached consumer protection legislation, causing a loss to customers of about £95,000.
 - The director of an Inverness-shire based company was disqualified for eight years for failing to maintain adequate records and failing to submit returns and make payments to HMRC in respect of VAT.

Live Company Investigations

- Included amongst the 21 companies wound up in the public interest between April 2017 and May 2017 following our investigations:
 - A Scarborough based company that was used to fraudulently obtain loans of £70,000.
 - A company with a Salford registered address that was used to launder £500,000 from other frauds and also an associated company with a Manchester registered address that carried out a timeshare re-sale fraud.

Bankruptcy – Restrictions

- A 12 years Bankruptcy Restrictions for a man who ran a failed £8.5m spread betting scheme between June 2009 and February 2012.

Views invited on the information interested stakeholders would like to receive about our activities

Business Services Directorate (BSD) update

Redundancy Payments Services (RPS)

The number of redundancy claims received between April 2017 and May 2017 was 8,504.

We met both of our timeliness targets of actioning all claims within 16 days and paying 95% within 6 weeks.

From 1 May 2016 all claims are submitted online via our online service. Digital take up is now 100% with under 1% requiring the assisted digital support offered by the agency. The result of assistant digital and RPS digital claims has provided the RPS with positive feedback from our customers.

Update on Debt Relief Order (DRO2) and the return of credit balances

Whilst DRO2 has been fully rolled out there is a snagging list and the DRO Team continue to work with the approved intermediary community and the INSS IT team to

update and improve functionality and this continuous improvement work will be a constant feature of the new application.

On the 1 June 2017 the DRO Team commenced an exercise to return old credit balances where money was paid towards the DRO fee but an application was not submitted and where the return of the money has not been requested.

Communications update

The Insolvency Service Newsletter

We continue to publish our quarterly Stakeholder Newsletter. The last edition was published in February, <https://www.gov.uk/government/news/winter-newsletter> . We use the newsletter to provide important updates to our stakeholders and to explain what we are doing to strengthen the insolvency regime and improve our services.

Views on content of the Stakeholder Newsletter would be welcome

Annual Report and Accounts

This was published on the 14th July 2016 and can be found at –

<https://www.gov.uk/government/publications/insolvency-service-annual-report-and-accounts-2015-to-2016>

Annual stakeholder forum, Insolvency Live!

We will be holding our annual forum for insolvency and debt advisory professionals, Insolvency Live!, on 17 July 2017. The day-long event includes presentations, workshops and a question and answer panel. Representatives from a broad range of Insolvency Service teams will also be on hand to share their work. Places had now been fully allocated for the event. A number of debt advisers have registered to attend. More information is available [on our website](#).

Policy Update

“Breathing Space”

The Government’s manifesto referenced adopting “a “Breathing Space” scheme, with the right safeguards to prevent abuse, so that someone in serious problem debt may apply for legal protection from further interest, charges and enforcement action for a period of up to six weeks. Where appropriate, they will be offered a statutory repayment plan to

help them pay back their debts in a manageable way. This will give eligible debtors time to seek advice and assistance to apply for a sustainable solution to their debt.”

EU/International developments

The Commission published proposals in November last year for a Directive on minimum harmonised standards for restructuring, second chance and insolvency procedures. The Directive contains proposals for:

- Access to early warning tools for businesses to detect the financial distress;
- A set of common, core elements for preventive restructuring frameworks to give debtors in financial difficulty effective access to procedures facilitating the negotiation and adoption of a restructuring plan while limiting the courts' involvement to where it is necessary;
- Minimum provisions on discharge of debt for over-indebted honest entrepreneurs after a period of no more than 3 years;
- Measures to increase the efficiency of restructuring, insolvency and discharge procedures; and
- Minimum rules on data collection by Member States allowing for the monitoring of restructuring, insolvency and second chance.

Negotiations on the Directive within the EU are still at a relatively early stage. We are considering the proposals and are seeking views from stakeholders on the Directive.

Corporate review

Government continues to liaise with stakeholders on the detail of the corporate review proposals following last summer's consultation.