

Update for Money Advice Liaison Group (MALG)

New Scottish Insolvency Rules

The corporate insolvency regime in both England and Wales and Scotland is underpinned by the Insolvency Act 1986 (“the Act”), with much of the detail set out in ‘Insolvency Rules’: for England and Wales, the Insolvency Rules 1986 and for Scotland, the Insolvency (Scotland) Rules 1986.

Work is currently underway to amend the Act as applying to Scotland in the devolved areas of corporate insolvency (receivership and the process of winding up), principally to bring it into line with changes already made in these areas in England and Wales. Scottish Government (SG) is presently drafting the rules on the mixed competence area of winding up (and the devolved area of receivership). The Insolvency Service (IS) is drafting of rules for the reserved areas of administration and company voluntary arrangements.

The modernisation project is supported by a working group of members from the insolvency profession and Companies House with a working knowledge of the Scottish corporate insolvency processes.

Good progress is being made with the drafting of the new Scottish Rules.

The Scotland Act 1998 (Insolvency Functions) Order 2017 was passed by the Economy, Jobs and Fair Committee in the Scottish Parliament on 31 October 2017. This Order allows Scottish Ministers and a Minister of the Crown to mutually confer functions on one another with regards to the processes of Company Winding-up which spans reserved and devolved competence. The Order will support the improvements to make the Corporate Insolvency processes more efficient and effective.

The latest working group for the modernisation project will take place on 24 January.

The new Scottish Rules are expected to be laid in 2018.

Policy Reviews

Diligence

We are aiming to publish our full response to the consultation on Diligence within the next few weeks and the report will be available to view on the AiB website. We will begin the process of implementing the recommendations following publication.

The Debt Arrangement Scheme

The details of the proposed changes to the Debt Arrangement Scheme (DAS) are currently with the Ministerial. Once approved, a report outlining the proposed amendments to the legislation will be published. The report will be available to view on the AiB website.

Protected Trust Deeds

We are currently finalising our response to the Protected Trust Deed consultation and will be published in due course. The report will be available to view on the AiB website.

Funding the Accountant in Bankruptcy

We have recently launched a consultation seeking views on the right approach to adopt to funding AiB, and in particular, on proposals to increase fees from 1 June 2018. The consultation closes on 12 March 2018 and can be found on the AiB website at www.aib.gov.uk/sites/default/files/2017_fees_consultation_final.pdf.

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