



Guidance note

STATEMENT OF INSOLVENCY PRACTICE 6

The interim Statement of Insolvency Practice 6 England & Wales – Decision Making in Insolvency Proceedings (**SIP 6**) is effective from 6 April 2017 (published 10 March 2017).

SIP 8 (Summoning and holding meetings of creditors convened pursuant to Section 98 of the Insolvency Act 1986) SIP 10 (Proxy forms) and SIP 12 (Records of meetings in formal insolvency proceedings) for England and Wales are withdrawn respect of all appointments in England and Wales, other than in respect of limited liability partnerships and certain other special insolvency regimes (see the **Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017** and **The Insolvency (England and Wales) Rules 2016 (Consequential Amendments and Savings) Rules 2017**), for which rule changes are planned to follow in October 2017 should Parliamentary time allow.

SIPs 8, 10 and 12 in Scotland and Northern Ireland remain in force.

BACKGROUND

Insolvency practitioners will be aware of the legislative changes coming into effect on 6 April 2017 with the commencement of the Insolvency (England & Wales) Rules 2016. The consequence of these legislative changes, particularly in relation to the way formal decisions of the creditors are obtained, is that SIPs 8, 10 and 12 will no longer be appropriate reflections of expected standards in light of the new legislation. In some instances they would have conflicted with the incoming legislative provisions.

The new SIP 6 was developed by a working party of the Joint Insolvency Committee comprising insolvency practitioners and representatives of HMRC and the Insolvency Service. It was approved by the authorising bodies on an interim basis, without the usual public consultation. The decision to do this was taken because of the time constraints of the rules implementation and the need to ensure that practitioners continue to have an appropriate regulatory framework in which to work, concurrently with the implementation date of the new rules. Therefore, the SIP is being issued on an interim basis, with the intention that it will be consulted on, reviewed and amended (if necessary) and thereafter issued in its final form on or around 31 December 2017.

The following approach has been used in revising the SIP.

- The SIP adopts the principles and key compliance standards format used for all new SIPs.
- The SIP applies to all office holders in all forms of insolvency proceedings, when obtaining a formal decision of the creditors via a deemed consent process or a qualifying decision procedure.
- The SIP additionally applies when assisting directors in their obtaining a decision of the creditors for the voluntary winding up of a company.

The former SIP 8 required significant amount of information to be provided to the meeting of creditors held under s.98 of the Insolvency Act. Given that, in most instances, there will no longer be a physical meeting of the creditors for this purpose (appointment will usually be by deemed consent or virtual meeting), consideration was given to what information creditors might reasonably expect in order to make an informed decision and when that information ought reasonably to be provided. Consequently, elements of the information previously required by SIP 8 have been retained in paragraph 12, but in a less prescriptive manner. This information should be available to creditors not

later than the business day prior to the decision date, where they request it. This is intended to be a proportionate provision, the operation of which will be specifically reviewed in the consultation which will follow the issuing of this SIP (see above).

SIP 10 and SIP 12 have been largely superseded by specific provision within the new rules. To the extent that regulatory provision was considered necessary in addition to the legislative requirements, this has been incorporated into the principles and key compliance standards within SIP 6.