

**CASE LAW**

- APPROVAL OF REMUNERATION IN ADVANCE OF WORK - SCOTTISH CASE
- APPEAL OF PART 26A PLAN DUE TO DEPARTURE FROM *PARI PASSU* PRINCIPLE
- UNLIMITED CROSS-UNDERTAKING FROM HMRC

**LEGISLATION**

- WATER INDUSTRY
- PAYMENT & ELECTRONIC MONEY INSTITUTION
- AML CHANGES
- EC & CT
- PRACTICE NOTE: QFCH
- RETAINED EU LAW

- CO HSE BELFAST
  - NI LEGISLATION
  - SCOTTISH BKY
- GENERAL INFORMATION**
- SIP 3.3 SCOTLAND
  - CONSULTATION ON BANKS
  - HMRC GUIDANCE
  - REVISED DCRS V5
  - GUIDANCE ON DRO

- INSOLVENCY REGULATION
- IPA - CPD, PII & CLIENT MONEY REGULATIONS
- IPA AML ANNUAL REPORT
- DEAR IP
- R3 CREDITOR MICROSITE
- DIRECTOR INFO HUB
- AIB NEW WEBSITE
- RP14A & RP15A
- FEE ESTIMATES

# TECHNICAL UPDATE

## Approval of Remuneration in advance of work - Scottish case

In the case of [Chad Griffin and Thomas Campbell MacLennan as joint administrators of Alexander Inglis and Son Ltd \[2024\] ScotCS CSOH 12](#) the court was asked: for the administration to cease, for the joint administrators to be discharged from liability, that the company be wound up, and that the joint liquidators' remuneration be agreed at 20% of realisations. The court granted all the orders except the approval of the joint liquidators' remuneration. The court felt that the joint liquidators' remuneration should be agreed in the usual way and not in advance of the work being completed and that a percentage basis might result in disproportionately high remuneration.

## Appeal of Part 26A plan due to departure from *pari passu* principle

In the case of [Re AGPS Bondco plc \[2024\] EWCA Civ 24](#) the court allowed the appeal to set aside the Part 26A plan due to the departure from the *pari passu* distribution of assets without justification.

## Unlimited cross-undertaking from HMRC

In the case of [Revenue and Customs Commissioners v Payroll and Pension Services \(PPS](#)

[Umbrella Company\) Ltd \[2023\] EWHC 3308 \(Ch\)](#) the court granted the appointment of provisional liquidators upon the application of HMRC over an umbrella company due to under reported and unpaid NIC. However, HMRC was required to provide unlimited cross-undertakings in damages.

## Water Industry Legislation

The following legislation has been introduced to modernise the water industry insolvency legislation:

- [The Flood and Water Management Act 2010 \(Commencement No. 10\) Order 2024.](#)
- [The Water Industry Act 1991 \(Amendment\) Order 2024.](#)
- [The Water Industry \(Special Administration\) Regulations 2024.](#)

## Payment & Electronic Money institution

[The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023](#) came into force on 4 January 2024.

## AML changes

[The Money Laundering and Terrorist Financing \(High-Risk Countries\) \(Amendment\) \(No.2\) Regulations 2023](#) came into force 5 December 2023.

[The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2023](#) came into force on 10 January 2024.

[The Money Laundering and Terrorist Financing \(High Risk Countries\) \(Amendment\) Regulations 2024](#) came into force 22 January 2024.

HM Treasury have issued a [Money Laundering Advisory Notice: High Risk Third Countries 26 February 2024.](#)

## Economic Crime and Corporate Transparency

[The Economic Crime and Corporate Transparency Act 2023 \(Commencement No. 1\) Regulations 2023](#) came into force 15 January 2024.

Companies House have announced that [further changes are also expected](#) to be introduced on 4 March 2024.

## Practice Note: QFCH Out of Court Appointments

The [Practice Note](#) explains the court's approach to the verification process required following the filing of a notice to appoint an out of court administrator by a Qualifying Floating Charge Holder.

## Retained EU Law

The Department for Business & Trade has issued a [six month \(June 2023 to December 2023\) report](#) which sets out the progress so far and plans to remove more burdensome retained EU law.

## Companies House Belfast

The [Companies House Belfast office will not be accepting post or hand deliveries from 4 March 2024](#). You will be able to file online if you have registered to do so.

### Northern Ireland Legislation

The [Insolvency \(Amendment No. 2\) Rules \(Northern Ireland\) 2023](#) came into force 1 February 2024.

### Scottish Bankruptcies

The [Bankruptcy \(Scotland\) Amendment Regulations 2024](#) comes into force 6 April 2024.

### SIP 3.3 Scotland Trust Deeds

The [revised SIP 3.3](#) came into effect 1 November 2023. For more detailed information see [the article on this matter by ICAS](#).

### Consultation on failure of small banks

HM Treasury have published a consultation on [Enhancing the Special Resolution Regime](#) on providing a new mechanism to facilitate managing the failure of small banks and limiting risks to the public funds. The consultation closes 7 March 2024.

### HMRC Guidance

HMRC has issued the following guidance:

- [Using debt management schemes to restructure a company's finances](#)
- [Cessation of tax clearance in members' voluntary liquidations \(MVLs\)](#) 6 December 2023 (this does not just effect MVLs)
- [Plastic packaging tax](#) 18 December 2023
- [VAT deregistration mailbox changes](#) 10 January 2024

- [Employment Protection Act \(EPA\) Scheme V2 - 17 January 2024](#)
- [NOT VALID Tax returns and payments in administrations](#) 17 January 2024
- [CORRECTION Tax returns and payment in Administration](#)
- [Requests for information on PAYE and Coronavirus Job Retention Scheme](#) 22 February 2024
- [VAT Notice 700/56](#) updated
- [HMRC's approach to how to treat insolvent members of a VAT Group](#) has changed from 22 January 2024

### Revised DCRS V5

The revised DCRS form came into effect from 20 February 24 and has a new section 14 which specifically deals with BBLs.

### Guidance on Debt Relief Orders

The Insolvency Service has updated its [Debt Relief Orders: Guidance for debt advisers](#) in November 2023.

### Future of Insolvency Regulation

The Insolvency Service has published its response to the consultation: [The future of insolvency regulation: Government Response](#) 12 September 2023.

### IPA - CPD, PII & Client Money Regulations

The IPA announced changes to [IPA Continuing Professional Education \(CPE\) Guidance](#), [Professional Indemnity Insurance Regulations \(PIIR\)](#), [Client Money Regulations \(CMR\)](#) and [Client Money Guidance](#) which took effect from 1 January 2024.

### IPA AML Annual Report

The IPA has issued its [AML Annual Report 2022/23 and Sector Risk Assessment](#).

### Dear IP

The latest Dear IPs are now available: [Dear IP 160](#), [Dear IP 161](#), and [Dear IP 162](#).

### R3 Creditor microsite

R3 have advised that their Creditor microsite has been compromised. Therefore you will want to ensure any links in your documents to this site are removed.

### Director Information Hub

The Insolvency Service has created a "[Director information hub](#)" to provide information and guidance to help directors.

### AiB new website

The new [AiB website](#) was launched by the Scottish Insolvency Service.

### RP14A & RP15A

Michelle will be recording a webinar on what you are expected to do to meet the regulatory requirements for RP14A & RP15A and this will be available to clients from 29 February 2024. Further information about our webinar membership may be found [here](#).

### Fee Estimates

[Here](#) is a link to an article on Michelle's webinar and the [webinar](#) given during the ICAEW Insolvency Roadshow October 2023.



Joanne Harris has 24 years' experience in insolvency dealing with all case types. She was formerly a Director of Technical and Compliance in a top 20 firm before starting her own business to supply technical services for insolvency practitioners without a compliance resource.

Joanne is also a partner of both The Compliance Alliance and JOH Consultancy which offer a range of services that may be tailored to an individual IP's needs.