

CASE LAW

- PROPRIETARY INJUNCTION
- CLAIMS AGAINST IPS
- LIABILITY OF LPA RECEIVERS
- WRITTEN OFF DIRECTOR'S LOAN ACCOUNT?
- WHEN IS THE PETITION PRESENTATION DATE?

- S423(3) IA86 PURPOSE NEEDS TO BE PROVED
- DEFINITION OF PREMISES
- LEGISLATION**
- CIVIL COURT AND PD AMENDMENTS
- SCOTLAND PAYMENT & ELECTRONIC MONEY

- MOVEABLE TRANSACTIONS SCOTLAND
- GENERAL INFORMATION**
- EU & HARMONISATION OF PRE-PACK SALES
- COMPANIES HOUSE
- HMRC GUIDANCE 69
- MONEY LAUNDERING ADVISORY NOTICE

- IVA PROTOCOL
- IVAS AND DEBT SOLUTIONS SCOTLAND
- HMRC INSOLVENCY GUIDANCE
- FCA GUIDANCE
- DEAR IP
- R3 TECHNICAL QUERIES
- SPRING STATEMENT
- BITE-SIZED CPD

TECHNICAL UPDATE

Proprietary Injunction

In the case of [Khan v Goldfarb \[2025\] EWHC 874 \(Ch\)](#) the appeal was in respect of a proprietary injunction over properties that the trustee in bankruptcy was seeking to establish possible claims under S339 and S423 IA86. The appeal was also on the basis that there had not been full and frank disclosure as part of the original application without notice and at that point proceedings had not been issued in respect of challenging the transactions. The judge held that the trustee in bankruptcy had established a sufficient proprietary or quasi-proprietary interest in the properties to ground an application for a proprietary injunction, even though the trustee did not have a present proprietary interest. The full and frank disclosure point was also dismissed.

Claims against Insolvency Practitioners

In the case of [Re Killean Estate Limited \[2024\] EWHC 3054 \(Ch\)](#) a claim had been brought by the company's director and sole shareholder against a firm in respect of the actions of their insolvency practitioners, acting as Administrators, for professional negligence. An Unless Order had been made, requiring the claimant to set "out with full particularity the legal and factual basis for the relief sought against the correct defendants". The claimant failed to comply fully with the Unless Order and the judge held even if he had, the

amended application "would be bound to fail". Various issues were discussed in the judgment, not least of which was that the administrators had gained their release from office and that having not sought to restore the company, the director had no standing as the company had been dissolved.

Liability of LPA Receivers

In the case of [Yerbury v Azets Holdings Ltd \[2025\] EWHC 757 \(KB\)](#) the judge considered the appeal against striking out a vicarious liability claim. The claim was brought against the firm who employed the Insolvency Practitioners acting as LPA Receivers. The judge confirmed that the LPA Receivers were appointed personally, and not as employees or agents of the firm they work for, and therefore the firm could not be held vicariously liable. However, criticism was directed at the firm for not making this clear when first contacted about the claim, which was reflected in the costs order.

Written off Director's Loan Account?

In the case of [G Quillan v HMRC \[2025\] UKFTT 421 \(TC\) \(10 April\)](#) the director owed £439,954 according to the statement of affairs. The liquidators accepted £57,498 but did not write off the liability and proceeded to close the liquidation. HMRC raised an assessment under S415(1) Income Tax (Trading and Other Income) Act 2005. The director appealed, stating the debt had not been

written off by the liquidator. The First Tier Tribunal allowed the appeal on the basis that they did not believe the debt had been written off.

When is the presentation date for a petition?

In the case of [Re A Company \[2024\] EWCA Civ 1436](#) the question asked of the court was, in the era of electronic filing, when is a winding up petition presented? The court determined this was when the cheque for the Official Receiver's deposit was received. This will impact S127 IA86 claims.

S423(3) IA86 purpose needs to be proved

In the case of [Thomas & Anor v Jones & Anor \[2025\] EWHC 756 \(Ch\)](#) £3 million and miscellaneous payments were challenged on the basis of S423 IA86. The £3 million gift was successfully challenged but the miscellaneous payments were not. The difference was in the ability to prove that the S423(3) "purpose" had been met in respect of the gift, which was based on the facts of the case.

Definition of premises

In the case of [Odeon Arcade Ltd v SmartestEnergy Business Ltd \[2025\] EWHC 571 \(Ch\) \(19 March 2025\)](#) the court was asked to restrain the advertisement of a winding up petition and determine the definition of premises under paragraph 3(1) of Schedule 6 to the Electricity Act 1989, where

there were multiple units within a shopping arcade. The court held on the basis of the definition of premises, the liability did not sit with the freeholder, but with those in occupation of each unit.

Civil Court and Practice Directions amendments

- [The Civil Procedure \(Amendment\) Rules 2025](#) came into force in part on 6 April 2025.
- [The Court and Tribunal Fees \(Miscellaneous Amendments\) Order 2025](#) came into force on 8 April 2025.
- [The 179th Practice Direction update](#) which came into force on 6 April 2025.

Scotland Payment & Electronic Money

[The Payment and Electronic Money Institution Insolvency \(Scotland\) \(Amendment\) Rules 2025](#) came into force on 26 February 2025.

Moveable Transactions Scotland

[The Moveable Transactions \(Scotland\) Act 2023 Amendment Regulations 2025](#) came into force on 1 April 2025.

EU & Harmonisation of pre-pack sales

The European Commission published a proposal for a directive seeking to further [harmonize the insolvency legislation](#) of the EU Member States, which included pre-pack sales.

Companies House

[R3 has advised](#) that Companies House are rejecting LIQ01

documents for not having the company name and registered number on the pages detailing the estimate of the assets and liabilities.

HMRC Guidance Spotlight 69

HMRC [Spotlight 69](#) highlights the issue of transferring a property into an LLP and then using the MVL process to avoid Capital Gains Tax.

Money Laundering Advisory Notice

HM Treasury published the [Money Laundering Advisory Notice February 2025](#) on 27 March 2025.

IVA Protocol

[The IVA Protocol was updated from 1 April 2025](#) although the 2021 Protocol will not be replaced until 30 June 2025.

IVAs and Debt Solutions Scotland

The [Common Financial Statement](#) trigger figures were updated on 1 April 2025 and the [Standard Financial Statement](#) spending Guidelines 2025/26 were updated on 7 April 2025.

HMRC Insolvency Guidance

The following bulletins have been published:

- [Insolvency practitioner bulletin 1 \(2025\): VAT7 form update](#)
- [Insolvency practitioner bulletin 2 \(2025\): Enforcement and Insolvency Services telephone number](#)
- [Insolvency practitioner bulletin 3 \(2025\): Industrial action and delays to services](#)

- [Insolvency practitioner bulletin 4 \(2025\): Individual Voluntary Arrangements mailbox](#)
- [Insolvency practitioner bulletin 5 \(2025\): excise and insolvency](#)

FCA Guidance

The FCA has issued updated guidance [FG25/2: Guidance for insolvency practitioners on how to approach regulated firms](#) which came into effect on 28th April 2025. The updated guidance is based upon a consultation; a [summary of the feedback](#) has also been produced.

Dear IP

The latest [Dear IP 167](#) deals with the new IVA Protocol.

R3 Technical queries

R3 have a new email address for technical queries: R3TechnicalTeam@R3.org.uk.

Spring Statement

The government has published its [Spring Statement](#). [ICAS produced a summary](#) of the Spring Statement also detailing all the consultations.

Bite-sized CPD

If you are seeking some easy to digest CPD we have recently released the following bite-sized webinars to clients, ranging from 30 to 50 minutes:

- Common Compliance Issues
- Case Law - The Highlights 2024/25
- Ethics the Remix - Part I
- Investigations, SIP 2 and COVID funding due diligence (... or where did all the money go?)
- HMRC Insolvency Bulletins - A Plethora of Paper!

More information on cost of membership may be found [here](#).



Joanne Harris has 26 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.