



01 June 2010

Our ref: ICAEW Rep 49/10

The Insolvency Service Policy Unit
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Dear Stephen Leinster

OFFICIAL RECEIVER BECOMING TRUSTEE ON THE MAKING OF A BANKRUPTCY ORDER AND REMOVAL OF THE REQUIREMENT TO FILE A 'NO MEETING' NOTICE

The ICAEW is pleased to respond to your request for comments on *The Official Receiver becoming trustee of the bankrupt's estate on the making of a bankruptcy order and removal of the requirement to file a 'no meeting' notice in certain company wind up cases.*

In the case of creditor petitions, we are concerned about the proposal for the official receiver (OR) to be immediately appointed trustee of a bankrupt's estate upon the making of the bankruptcy order, which would give the OR the opportunity to immediately deal with assets etc. A creditor petition is more adversarial than a debtor petition, and is a procedure that the debtor is drawn into involuntarily. Whilst the debtor has the opportunity to object at the hearing of the petition, (s)he may not have the information necessary to prevent the bankruptcy order from being made. The stage where the OR is receiver and manager can provide useful breathing space and the opportunity for an annulment application if appropriate, before the estate has vested in the trustee and assets potentially sold.

For completeness, we would support a proposal for the OR to be appointed trustee immediately in the case of debtor petitions.

The removal of the requirement to file a 'no meeting' notice in cases where a secretary of state appointment has been made shortly after the making of the company winding up order appears to us to be a sensible reduction in unnecessary bureaucracy.

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Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely

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