

The first edition of this book appeared in 1972. Since then, we have seen periods of horrendous inflation with peaks and troughs of corporate insolvencies as recessions and booms have succeeded one another. In the midst of this activity, we saw first the 1981 Report of the Cork Committee (Cmnd 8558), then the Insolvency Acts of 1985 and 1986, the Company Directors Disqualification Act 1986 and a barrage of delegated legislation designed to put flesh on the bare bones of the primary statutes. Our third edition was published in 1989 and, of course, incorporated the legislation of the mid-1980s and some of the earlier decisions of the courts. This was, however, before the last two recessions had really taken their toll. While compulsory liquidations which totalled 5,200 in 1986 had remained at this level in 2011, creditors' voluntary liquidations which totalled 9,200 in 1986 had risen to just under 12,000. On top of this administrations which hardly figured in the statistics in the 1980s had risen to nearly 5,000 in 2008, though they fell back to just under 3,000 in 2011.

The recent and ongoing worldwide financial crisis which commenced in 2008 called for drastic measures. These included some major banks being propped up at huge public cost. There is no doubt that some banks were saved from extinction by this mechanism, but then only at the expense of taxpayers. This has been accompanied by the introduction of the monetary policy known by the euphemism of quantitative easing, which in plain language is the printing of money. The combination of huge public debt and the risk of inflation make many concerned at the burden which future generations are being required to inherit. While, as detailed above, overall corporate insolvencies appear not to be escalating as fast as they might be expected to have done, what will happen when interest rates revert to some sort of normality remains a matter of speculation.

Insolvencies generate litigation and vast numbers of cases have now been reported which ease the task of commentators in showing how the regime of insolvency law introduced in the 1980s is working out. This new edition has been expanded to take account of these developments. Two editions ago we incorporated for the first time compulsory liquidations. Since then, there have been major legislative developments both at home and in Europe. The Insolvency Act 2000 introduced changes to the corporate voluntary arrangement procedure to facilitate the bringing about of a moratorium while an agreement was being reached with creditors. It also allowed delinquent directors to give undertakings that they would not act as directors (as opposed to having a disqualification order made against them).

Then the Enterprise Act 2002 provided that secured creditors should in future enforce their rights through the appointment of administrators responsible to all the creditors and members, rather than administrative receivers who were effectively responsible only to the secured creditors themselves. The act also witnessed the most unlikely of events, the abandonment by the Treasury of its preferential status in insolvencies. The effect is that liquidators will generally have more money with which to sue, both to recover assets and to pursue directors who have wrongfully traded. These developments have all been incorporated into the text together with the 2000 EU Regulation on Insolvency Proceedings. This itself

resulted in a further chapter in the last but one edition and in the last edition we incorporated a further chapter on administrations.

Since the last edition there has been further amendment to insolvency by the Insolvency (Amendment) Rules 2010 and other secondary legislation. This tendency to change primary legislation by ministerial diktat has a number of consequences, none of which is of the slightest benefit to business:

- There is no need to get the primary legislation right at the first drafting. It can easily be amended. The inevitable result is the risk of downright sloppy and ill-considered drafting.
- There is no longer a definitive Queen's Printers' copy of an Act of Parliament. Those advising must always have before them the latest edition of an edited copy of an Act.
- There is a distinct risk that there will have occurred an inadequate scrutiny by Parliament. Unlike an Act passing through both Houses, secondary legislation often goes through on the nod, not least because there is so much of it that Parliament cannot carry out proper scrutiny.
- By the same token, there is often inadequate consultation before the implementation of secondary legislation.
- While Acts of Parliament usually receive adequate publicity at least in the serious press, secondary legislation often goes through unnoticed and consequently unpublicised.

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