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Don't think this is a permanent thing: the new Temporary (or Miscellaneous) Insolvency Practice Direction (effective 1 October 2021) and a reminder of the existing IPD provisions

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Background



- **TIPD**
 - Introduced 6 April 2020 and extended
 - Contained measures relating to the pandemic
- **MIPD**
 - Effective 1 October 2021
 - Continues certain changes made by TIPD indefinitely

The existing Insolvency PD

- Hybrid of guidance / reminders re provisions of IR / IA and supplementary rules
 - General provisions re conduct and allocation of insolvency proceedings
 - Administration (para 8)
 - Conduct of w/up petition (para 9)
 - Pre-issue search
 - Payment of fee/deposit
 - Content of petition
 - Treatment of errors

- Stat demands / set aside procedure
 - Filing reqs – 11.4.3
- Conduct of bankruptcy petitions
 - 12.7.1 – list of steps which will normally justify an order for substituted service
- Conduct of validation order applications (para 12.8)
- Appeals

- **Application relating to remuneration of office holders (para 21)**
 - **Principles to be applied**
 - **Fairness and reasonableness**
 - **Proportionality**
 - **Relevance of professional guidance as to appropriate fees**
 - **Particulars that should be included in evidence as to work / hours done and the backup documentation that should be provided to support them**
- **Unfair prejudice / winding up orders (para 22)**
 - **S 994 / 122(1)(g) – alternatives**

TIPD



Changes made

- Out of hours appointment of administrators
- Provisions for remote hearings
- Statutory declarations
- E-filing of documents for obtaining a moratorium

MIPD – Provisions retained from TIPD

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MIPD – Out of hours appointment of administrators



- **Following notices are deemed sent at time in Filing Submission Email**
 - Notice of intention to appoint administrator filed by company or its directors (para 27 Sch B1 IA 1986)
 - A Notice of appointment filed by a qualifying floating charge holder (para 18 Sch B1 IA 1986)
 - Notice of Appointment by a company or directors (para 29 Sch B1 IA 1986)

MIPD – Out of hours appointment of administrators



- Notice of appointment by floating charge holder cannot be filed outside of court hours electronically (para 8)
- Notice of intention to appoint/ of appointment by company/directors can be filed out of hours but deemed received at 10am next court day



MIPD – Statutory declaration

- Statutory declaration must be given “in the presence of” the person administering it: Statutory Declarations Act 1835 s 2
- Workaround for statutory declarations under sch B1
- If done via videoconference, the defect will not cause serious prejudice and can be relieved against under IR 12.64

MIPD – Moratorium



- **Where directors file documents under section A3 of the IA seeking a moratorium, deemed to be filed at the date and time in the email receipt**

MIPD – What is not retained



- Remote hearings
 - Winding up
 - Bankruptcy
 - Provisions re other hearings
- Significance of non-retention?

Thank you for listening and watching