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Credit Where Due

The rules for businesses going into voluntary administration have changed, David Lalic writes

Everyone in business at some time comes in contact with companies that have appointed a voluntary administrator. The directors of a company, when faced with difficulties with creditors, can appoint a voluntary administrator to give them time to sort out things. This will allow them to hopefully resume their business under their own control when administration ends.

As a business operator you may also have to deal with an administrator who has been appointed by one of the creditors of business. In both of these scenarios it is important to know what the rules are and where you stand.

NEW RULES

Early in 2008, changes were made as to how voluntary administration are conducted. One first things that happens when a voluntary administrator is appointed is a meeting of creditors is called to consider setting up a committee of the creditors to oversee the administration, or to appoint an alternative administrator

In the past this had to be done five business days after the appointment. This gave creditors very little time to receive notice of the meeting or even to know what was going on. Under the new rules this meeting is to be held eight business days after the appointment of the administrator. Ideally extra time will be enough to allow creditors to seek advice, protect their position and for the administrator to prepare before the meeting.

SECOND MEETING

The second meeting of creditors in the administration is an important one. At this meeting the decision is made on whether the administration should end or liquidator should be appointed. It is also possible at this meeting for the creditors to agree to an arrangement as to how the debts will be paid. At the end of the arrangement the company returns to the original owners.

If everything has been sorted out before the second meeting it might be that the administration simply ends. Before the changes in the rules this important meeting had to be held a maximum of 28 days following the appointment of the administrator. This gave very little time for the administrator to issue his detailed report to the creditors as to what his opinion was as to the best options. This report under the old rules had to be despatched to the creditors seven days prior to the meeting.

The new rules require the second meeting to be held within approximately 34 days of the appointment of the administrator.

DEBT SECURITY

Sometimes people have security for their debts. Under the old rules secured creditors only had 10 days to appoint a receiver to secure property and try to recover on the secured property; this has been extended to 13 days.

As we are entering very uncertain time it is important everyone in business understand the new rules and take advantage of them to grow and protect their business.

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