

CASE LAW

- BENEFICIAL INTEREST IN A PROPERTY
- WHAT DOCUMENTS MAY BE DISCLOSED
- SERVICE VIA SOCIAL MEDIA

JIEB

- WHAT TO DO NEXT
- LEGISLATIVE UPDATE**
- FEES, FEES, FEES
 - SUPPLY OF ESSENTIAL SERVICES

- REPRIEVE FROM JACKSON REFORMS
- NO MORE IP RECORD
- SCOTTISH INSOLVENCY

GENERAL INFORMATION

- HEATH & SAFETY, IPS AND CRIMINALITY
- ENJOY THE UPDATE? PLEASE DONATE
- JIEB RESULTS OUT

TECHNICAL UPDATE

Beneficial interest in a property

In the case of *Graham-York v York* (Personal Representative of the Estate of Norton Brian York) and another [2015] All ER (D) 115 (Feb) the issue of determining the beneficial interest in a property was reviewed. The wife who had lived with her husband for 30 years and had been abused, claimed an interest in the matrimonial home upon his death despite the property having always been in the husband's name and the husband having made all financial contributions to the property. It was determined based on what 'the court considers fair having regard to the whole course of dealing between them in relation to the property' that the wife had a 25% interest after the mortgage had been redeemed. The court confirmed that equity of exoneration did not apply and that the personal circumstances of the relationship could not be considered in terms of the dealings with the property.

What documents may be disclosed

In the case of *Re Corporate Jet Realisations Limited* (In Liquidation); *Green v Chubb* and another [2015] EWHC 221 (Ch) the liquidator requested disclosure of certain documents from the Joint Receivers, including documentation in respect of the business review it conducted prior to appointment. Whilst the court held that many of the documents requested were to be disclosed, it

also ruled that certain documents which comprised records that were confidential, privileged or related to the strategic considerations of the receivership were not subject to disclosure.

Service via social media

It was reported by Insolvency New, link here <http://goo.gl/leCb3i>, that a local county court has allowed service on a bankrupt to be made via Facebook for him to appear in court. The Courts seem to be inclined to use social media, as this case and last year's Irish case prove.

Fees, Fees, Fees

It has been announced today that the legislation relating to IPs' remuneration will be changed effective from October 2015. The announcement may be found here <http://goo.gl/6MasZJ>. If IPs wish to have their fees approved on a time-costs basis, they must give a fee estimate which will act as a cap, as well as setting out what work will be done and what it will cost to undertake that work. The draft legislation has yet to be made available.

Supply of essential services

The Insolvency (Protection of Essential Supplies) Order 2015 is available here <http://goo.gl/kCEVJE> and due to come into force 1 October 2015. This now reflects the need for IT services whilst trading.

JIEB What to do next

Congratulations to all those who passed the exam.

To those who didn't quite make it over the finish line, I hope this has given you renewed determination that YOU CAN PASS THE JIEB.

This is a difficult exam and you need to commit yourself to the experience and be prepared to study 10-14 hours a week, but even that may not be enough; you need to truly understand what the exam is asking you.

This exam is not about regurgitating mind-maps, although without them you will never learn enough to pass, it is not just about knowing the relevant case law and legislation, and it isn't even about knowing your SIPS. This exam is about knowing all of the above and being able to apply this knowledge to practical situations.

I know it is disheartening to fail but never give up. I also know this seems early, but really where do you want to be next year? Every hour you spend now will be a move closer to passing the exam.

WHAT TO DO NEXT

The first thing to do is sort through all of your mind-maps. One of the big areas students fell down last year was not understanding the practical steps needed to apply the SIPS, Insolvency Guidance Papers, case law and legislations. So go through every mind-map and add a minimum of 5 practical steps to each.

Reprieve from Jackson reforms

The government has agreed to further delay the introduction of the Jackson reforms for insolvency and the ministerial statement may be found here <http://goo.gl/MjN4nN>. It is unclear whether this reprieve is permanent. A further statement is to be issued later in the year.

No more IP record

The **Insolvency Practitioners (Amendment) Regulations 2015 SI 2015/391** will come into force on 1 October 2015 and will remove the requirement for an IP record to be held on each case. However, this has been replaced by a requirement to "maintain records containing information sufficient to show and explain—

(a) the administration of that case [...]; and
(b) any decisions made by the insolvency practitioner which materially affect that case." The need to document your decision-making process is no longer just within the SIPs as guidance; it has now been legislated. A copy may be found here <http://goo.gl/bl4pOr>.

Scottish Insolvency

The **Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2015 SSI 2015/80** comes into force on 1 April 2015. This is to refine the statutory instrument drafted last year. The **Common Financial Tool etc. (Scotland) Amendment Regulations 2015** comes into force on 1 April 2015 and will allow bankrupts to retain an amount for emergencies. The **Bankruptcy and Debt Advice (Scotland) Act 2014 (Commencement No 2, Savings and Transitions) Amendment Order 2015** is a minor amendment to the 2014 statutory instrument. David Menzies has also noted via

his Twitter feed that the **Community Charge Debt (Scotland) Bill** passed does not state the effect for existing insolvency cases.

Health & Safety, IPs and Criminality

Simon Joyston-Bechal of Turnstone Law has produced computer based training which explains why IPs need to be wary of personal criminal prosecution arising from Health & Safety risks associated with their appointments. The cost per person is £100 or if over 50 employees £90. For more information, email admin@turnstonelaw.com.

Enjoy the update? please donate for a marathon run

If you have enjoyed my technical update then may I ask you make a small donation to my husband's chosen charity as he will be running his first marathon in April. Here is a link to his sponsorship page, any and all amounts received with thanks www.justgiving.com/neilharris72bm/.



JIEB Results out 6 March

The JIEB results are out this Friday. I am sure you are all anxious to know the results whether you think you have passed or not as the certainty will allow you to plan your next step. My JIEB classes for block courses start in March and I still have availability on my weekend courses for Administrations and Personal insolvency. I have a maximum of 10 students per class allowing all students an opportunity to participate in the learning process. www.insolvencyexamtraining.co.uk/jieb2015.html

JIEB What to do next - ctd

Next get your SIP wall back up ... did you learn the guidance paper to the new SIP 2 as well as SIP 2? If not, go back and create it. Did you learn the six (remember we now have one on ROT) Insolvency Guidance Papers (IGP)?

Thirdly, download the examiners' report and read it ... not just the marking scheme, but also their comments. Make sure your mind-maps now have the 2014 marking scheme incorporated.

Fourthly, start tackling a numbers' question per week between now and the exam. Passing the exam papers sometimes turns on your ability to do numbers questions and knowing the proformas.

Lastly, start playing with your mind-maps ... have you created 4 large mind-maps to cover every single topic per paper ... do you understand the processes for each paper? Go back to the syllabus and mark off each topic area that your mind-maps cover ... are there any gaps? If so these need to be plugged.

If you are reviewing your mind-maps then make sure the following 4 elements are present:
SIPS, IGPs, industry guidance
Case Law
Legislation
PRACTICAL STEPS and if this final element is missing go back and add at least 5 practical steps

Did you make mind-maps from the Insolvency handbook? If not, have a look at my blog on this area which may be found here <http://goo.gl/PZiB6K>.

Finally make sure you get together with others sitting the exam, form a study group and start emailing or meeting once a week.

Now you are on the path to passing this challenging qualification.



Joanne Harris is a licensed Insolvency Practitioner and has 16 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 also provides training for the JIEB, CPI, CPPI & CPCI exams.

M: 07780 613826

E: jo@johconsultancy.co.uk

E: jo@insolvencyexamtraining.co.uk

W: <http://www.johconsultancy.co.uk>

W: <http://www.insolvencyexamtraining.co.uk>