

26th February 2009

Dear Insolvency Practitioner

RE: PRE-PACKAGED ADMINISTRATIONS

I am writing to you about the regulation of pre-packs. The Recognised Professional Bodies are aware of the content of this letter.

The Department is of the opinion that pre-packs are a useful tool for practitioners, and one that can ultimately save jobs and rescue businesses that would otherwise not survive a company's insolvency, but concern remains among some creditors and Ministers about their use. There have been a number of newspaper articles expressing creditors' fears that, given the nature of pre-packs, the process does not allow for the business to be fully marketed. There is also a perception that the directors of the failing company may be influenced to put the company into administration by a desire to purchase the business post administration, leaving pre-packs open to abuse.

The Department is keen to address these concerns, which have the potential to impact upon the reputation of the insolvency profession as a whole. Statement of Insolvency Practice 16 (SIP 16), which came into force on 1 January 2009, is intended to introduce greater transparency to the operation of pre-packs by giving creditors information about the sale of the business. However, it is important to demonstrate that the SIP is working as intended, and that the desired transparency is being achieved.

The Department has determined a strategy to evidence insolvency practitioners' compliance with the letter and spirit of SIP 16 and that the desired transparency is achieved. **In order to implement this strategy in a cost-efficient way, the insolvency regulators have agreed that when sending SIP 16 information to creditors in respect of a company in administration in Northern Ireland you should also forward a copy to: Insolvency Practitioner Unit, The Insolvency Service, Fermanagh House, Ormeau Avenue, Belfast, BT2 6NJ; or email to tom.roulston@detini.gov.uk**

To comply with the SIP, this information should be sent at the earliest opportunity, which will normally be when creditors are first notified of the administration. The Department will be actively monitoring the timing of the notification to creditors. Any

failure to provide the required information to creditors should be the result of exceptional circumstances, and if this is the case, the reason why the information is not provided should be stated.

In addition, the Department will be examining the conduct of directors who take part in pre-packaged administrations, to confirm that no misconduct has occurred. Where appropriate, the Companies Investigation Branch will make use of powers conferred by the Companies Act to obtain information from purchasers. The Department will also be working with the authorising bodies to actively monitor practitioners' compliance with the provisions of SIP 16, and follow up any breaches of the guidance that may occur.

Thank you for your assistance in this matter. We believe that by tackling the concerns that have been expressed about pre-packs in this way we will, with your help, be able to demonstrate that pre-packs when undertaken responsibly are a useful tool which benefits creditors. Any queries regarding the contents of this letter should be addressed to: Tom Roulston, Insolvency Practitioner Unit, The Insolvency Service, Fermanagh House, Ormeau Avenue, Belfast, BT2 6NJ. Email tom.roulston@detini.gov.uk.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'WR Nesbitt', written in dark ink.

WR Nesbitt
Director of Insolvency