



### **Restrictions on re-use of the Company name!**

We would also like to take this opportunity to draw the Board's attention to the provisions of Section 216 and 217 of the Insolvency Act 1986 which are briefly explained below.

As you are a Director of the Company, once the Company is placed into liquidation you will be prohibited from using any name by which the Company was known, including any trading names, or a name which is so similar as to suggest an association with that Company.

The restriction from using a prohibited name applies for the period of 5 years beginning with the day on which the Company is placed into liquidation and except with the permission of the court you cannot:

- "# be a Director of any other Company that is known by a prohibited name, or,
- "# in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of any such Company, or,
- "# in any way, whether directly or indirectly, be concerned or take part in the carrying on of an unincorporated business under a prohibited name.

There are, however, three statutory exceptions to the restriction imposed by section 216 of the Insolvency Act 1986 and these are set out in Part 22 of the Rules. One of these exceptions involves the creditors being notified within a specific deadline that a company will be using a prohibited name. However, you should be aware that, although the Rules provide a 28-day timescale within which this matter may be addressed by means of a notice published in the Gazette and to all the Company's creditors (see Rule 22.4(3)(a)), the notice must be given and published before a Company Director acts in any of the above capacities. If this timescale is not met, then it may be necessary to apply to court for permission to use the name (see Section 216(3)).

It is a criminal offence to contravene section 216 of the Insolvency Act 1986 and if you act in contravention of this section you are liable on conviction to imprisonment and/or a fine. In addition, by virtue of section 217 of the Insolvency Act 1986, a person who is involved in the management of a Company in contravention of section 216 is personally liable for any debts of the Company incurred during the period of that involvement.

You should seek independent legal advice both to ensure that you do not contravene section 216 and if you wish to take advantage of the statutory exceptions.