



Small Firms Legal News Update

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16 May 2013

Cases

Insolvency

BNY Corporate Trustee Services Ltd v Eurosail-UK 2007-3BL Plc.

2013 WL 1841752. Supreme Court (SC). Lord Hope, J.S.C.; Lord Walker, J.S.C.; Lord Carnwath, J.S.C.; Lord Sumption, J.S.C.; Lord Mance, J.S.C.. 9 May 2013

While discrediting the "point of no return" test, the Supreme Court affirmed the decision of the Court of Appeal that the ability of a company to meet its liabilities, both prospective and contingent, was to be determined on the balance of probabilities with the burden of proof on the party asserting "balance-sheet insolvency".

Appeal dismissed, cross-appeal dismissed.

Legislation

Criminal Law

Crime and Courts Act 2013 (Commencement No. 1 and Transitional and Saving Provision) Order 2013. SI 2013/1042 (C.44)

This Order brings into force on May 8, 2013 the specified order making powers, the interpretation provisions in the Crime and Courts Act 2013 Pt.1, s.51. Section 51 makes some technical amendments to the immigration appeals provisions in the Nationality, Immigration and Asylum Act 2002 and the Immigration, Asylum and Nationality Act 2006 s.47 to facilitate combined appeals.

[Read the full text here](#)

In Force: Bringing into operation various provisions of the 2013 Act on 8 May 2013, 27 May 2013 and 25 June 2013.

Made under Crime and Courts Act 2013 s.60, s.61(2)

Legislation referred: Crime and Courts Act 2013 Pt.1, s.47



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Regulatory Developments

Civil Procedure

Civil justice costs reforms: do you want to represent the profession?

By Law Society. 9 May 2013

The Civil Justice Council Costs Committee is conducting a review of the guideline hourly rates and has invited the Law Society to appoint two solicitors to the committee. The committee's terms of reference are: to review the guideline hourly rates (GHR) and to make recommendations to the Master of the Rolls by January 2014; to review the GHR on an annual basis and make recommendations to the Master of the Rolls on how they need to be updated; and to monitor the operation of the costs rules, in consultation with the Ministry of Justice.

[Read the full text here](#)

Legal Profession

Government says "no" to will-writing regulation.

By Legal Futures. 14 May 2013

A decision notice issued by the Lord Chancellor, Chris Grayling, has stated that the Government has rejected the Legal Services Board's recommendation that will-writing become a reserved legal activity as it "does not adequately demonstrate that reservation is the best solution, or that alternative measures have been sufficiently exhausted in seeking to address this detriment".

[Read the full text here](#)

News

Damages

Officer wins GBP 14,000 pay-out for stubbed toe. Daily Telegraph, 11 May 2012, 17.

A police officer was awarded almost GBP 14,000 in damages after stubbing his toe during health and safety training - the same amount as a colleague who was shot in the leg - a freedom of information request has revealed.

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Further Reading

Administrative Law

Error of judgement? L.S.G. 2013, 110(16), 8. By Joshua Rozenberg.

Discusses reforms to judicial review aimed at targeting "weak, frivolous and unmeritorious cases", announced by Justice Secretary Chris Grayling in April 2013, including reducing time limits for bringing a permission application in planning cases and procurement cases, removing the right to oral renewal of a written application for permission where the judge dealing with it decides the application to be totally without merit, and changes to the fees payable. Notes judicial response to the original proposals as set out in a consultation document published in December 2012, leading to some being dropped.

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