

**Business Law:**

# Insolvency

The most common insolvency procedure in Jersey is the *Désastre* under the terms of the Bankruptcy (*Désastre*) (Jersey) Law 1990. The procedure is used both for an individual or a company. A company can also proceed with the creditors winding up pursuant to the terms of the Companies (Jersey) Law 1991.

## What is *en désastre*?

An application for a declaration *en désastre* under Article 3 of the *Désastre* Law may be made to the Royal Court by a Creditor who has a liquidated claim in excess of £1,000. A liquidated claim is essentially a claim to which there is no reasonable defence or objection. In the normal course Benest & Syvret would have obtained a judgement against the Debtor on behalf of the Creditor client before proceeding with a *Désastre* application.

The *Désastre* Law provides a definition of insolvency as being the inability by a Debtor to pay his debts as they fall due. In practice a *Désastre* will not be granted by the Court where the Debtor is unable to pay his debts but does not have assets which are capable of being realised. Accordingly the Creditor or Debtor will need to file an Affidavit with the Court explaining the extent of the debts and assets.

Benest & Syvret have a close working relationship with the Viscount's Department which acts to administer all bankruptcies under the *Désastre* Law. We regularly advise clients in their pursuit of debt recovery and submission of claims within bankruptcy proceedings.

## Insolvency remedies

There are other insolvency remedies in Jersey which are less commonly used. These include ***Remise de Biens***, ***Cession Générale***, ***Dégrévement*** and ***Realisation***. Such remedies sometimes provide a useful protection for a business or individual who is burdened by debt. All however have as their overriding principle fairness to the Creditors.

## Why would I apply for insolvency?

On occasions, from a Debtors point of view, an application for a *Désastre* or one of the other forms of insolvency is ultimately the best way to proceed. It provides protection to the Debtor against the sometimes harsh approach of Creditors and ultimately a potential discharge from liability of debts after a period of time. The application for insolvency should however be made after careful consideration of all of the options together with practical legal advice.

Please [contact us](#) for an initial conversation, to arrange a meeting or for more information on how Benest & Syvret can assist you.

This guide is intended to provide outline details only and should not be considered as a substitute for specific legal advice. [Disclaimer](#).