

The impact of insolvencies on construction in 2024

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There will also be continued consequences arising out of the ongoing downturn in the economy. In the four quarters ending Q3 2023, the construction industry reported 4,276 cases of insolvency to the Insolvency Service, equating to 18% of all insolvencies reported (when an industry was recorded) during this period.

In addition, according to forecasts published by the International Monetary Fund in October 2023, the UK is likely to have the slowest growing economy amongst the G7 nations in 2024. The International Monetary Fund is predicting that the UK's GDP will expand by an estimated 0.6% in 2024, down from a previous forecast of 1.0%.

The construction industry is a vital part of the UK economy, contributing significantly to employment and GDP. However, it is well known that the sector has been facing several challenges in recent years, including rising costs, a shortage of skilled workers, increased competition and the impact of the COVID-19 pandemic

These challenges have put increasing pressure on construction companies, and as a result, many construction companies are struggling to stay afloat and there have been several high profile casualties.

These pressures, and the IMF's predictions, indicate that high insolvencies in the construction sector are likely to remain a feature in 2024, which will have a ripple effect on the wider economy.

Further, the increased insolvencies are likely to result in a rise in claims brought under the Third Parties (Rights against Insurers) Act 2010 (the Act). The Act allows third parties to make a claim directly against an insurer when the insured party is insolvent without first having established the liability of the insured, with the insurer in turn being entitled to raise coverage defences that would have been available against the insured (subject to some modifications).

Whilst a detailed review of the rights and remedies available under the Act is beyond the scope of this article, it remains the case that there are relatively few reported cases relating to the Act, with the result that numerous issues remain uncertain, including questions relating to limitation, and the obligations under the Act to provide information, all of which is likely to increase the duration, and therefore costs, of such claims.

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