

## **UK GOVERNMENT EXTENDS FURTHER EMERGENCY LEGISLATION TO PROTECT BUSINESSES UNTIL 30 JUNE 2021**

In announcements made on 10 and 24 March by the UK Government, further temporary insolvency and other measures aimed at protecting businesses during the coronavirus pandemic which were due to expire at the end of March, have now been extended until the Summer.

### **The temporary measures that have been extended include:**

- statutory demands served between 1 March 2020 and 30 June 2021 may not be used to form the basis of a winding up petition;
- winding up petitions cannot be presented between 27 April 2020 and 30 June 2021 unless it can be established that the insolvency is unrelated to the coronavirus pandemic;
- a relaxation of the personal liability that may be imposed on directors under the wrongful trading provisions, that meant that the court had to assume that for the period between 1 March and 30 September 2020 a director was not responsible for the worsening of the company's financial position. The recent extension means that the relaxation of personal liability applies also from 26 November 2020 to 30 June 2021; and
- the moratorium preventing forfeiture of commercial leases due to the non-payment of rent has also been extended until 30 June 2021.

These measures continue to protect companies from creditor action as we gradually emerge from the latest lockdown. For example, this means that creditors cannot rely on statutory demands to bring winding-up petitions and are prohibited from filing winding-up petitions where the company's inability to pay its debts is due to coronavirus.

Further breathing space is provided to business tenants by the extension of the moratorium preventing landlords from forfeiting commercial leases based on rent arrears until 30 June 2021. The moratorium was due to expire on 30 March 2021. The UK Government's aim is to allow tenants a further 3 months (15 months in total) to reach arrangements with their landlords over rent to enable viable businesses to continue to operate post lockdown. But there is a warning that the Government is prepared to take further steps if there remains a significant risk to jobs because parties don't reach their own agreements.

The Government is calling for information from landlords and tenants to enable it to monitor the situation. There will also be a consultation on potential routes out of the moratorium, ranging from a phased withdrawal of current protections to legislative options targeted at the most affected businesses (likely hospitality and any businesses still subject to compulsory closures). The review (with a view to reform) of commercial landlord and tenant legislation announced in December 2020 has been postponed to later in the year. The intention remains for it to consider a broad range of issues including the security of tenure under the Landlord & Tenant Act 1954, different models of rent payment and the impact of coronavirus on the market. The restrictions on using commercial rent arrears recovery will also be extended in line with the forfeiture moratorium. This means that the total number of days of outstanding rent required for CRAR to be used will increase to 457 days between 25 March 2021 and 23 June 2021, and 554 days between 24 June 2021 and 30 June 2021.

### **The permanent insolvency measures introduced on 26 June 2020 continue. They include:**

- a standalone moratorium for viable companies, which provides the company with a payment holiday for certain payments and protection from proceedings including enforcement;
- a new compromise procedure, known as a restructuring plan, modelled on a scheme of arrangement, which permits, with the court's approval, one class of creditors to bind others to an arrangement to eliminate, reduce, prevent, or mitigate the effects of any financial difficulties; and
- a prohibition on suppliers relying on termination clauses triggered by formal insolvency proceedings, including the new moratorium or the new compromise procedure.

The key features of each of the permanent measures are set out in the tables at the end of our [briefing](#) published in June 2020.

If you would like to hear more about the temporary and permanent insolvency measures please contact our restructuring and insolvency team or your usual Clifford Chance contact.

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