

UK Insight: Proposed Insolvency Law Changes and Additional Business Support Measures for COVID-19 (Coronavirus)

On March 28, 2020, the Secretary of State for Business, Energy and Industrial Strategy announced a series of measures intended to protect and provide breathing room to distressed UK businesses in the wake of the wide-reaching COVID-19 closures. Implementing legislation is yet to be passed but will include the following:

- Suspension of Wrongful Trading
- New Restructuring Moratorium and Plan
- Additional Business Support Measures

Suspension of Wrongful Trading

Under current UK insolvency laws, where a director of a company knew (or should reasonably have known) that there was no reasonable prospect of that company avoiding insolvent liquidation, that director can be held personally liable for the company's debts if they fail to minimise potential loss to the company's creditors.

The proposed suspension of wrongful trading will take effect retroactively for a period of three (3) months, starting from March 1, 2020 (subject to further extensions), and aims to relieve pressures faced by company directors whose businesses may be distressed as a result of COVID-19 closures. The suspension will enable companies to continue trading during the crisis without the threat of personal liability for directors should the company ultimately end up in insolvent liquidation.

Company directors should, however, continue to comply with their duties under the Companies Act 2006 and be mindful of potential liabilities under fraudulent trading laws and the directors disqualification regime, which remain in effect as normal.

New Restructuring Moratorium and Plan

Further proposed changes to UK insolvency laws will provide time for UK companies seeking rescue or restructure by providing a moratorium from enforcement of debts by creditors for an as yet undisclosed period of time. Creditors and suppliers will be afforded "key safeguards" that will aim to ensure they continue to receive payment until a solution is ultimately identified. The UK Government will also implement a new restructuring plan that would bind all creditors.

Full details of these measures have yet to be released and in any event the UK Government will need to pass new legislation in order to implement them.

Additional Business Support Measures

Further legislation will be passed to ensure companies that are required to hold Annual General Meetings can do so safely and in accordance with the UK Government's COVID-19 guidance on social distancing and restrictions on movement (*i.e.*, by holding them online or postponement). This is in addition to the grant of a three (3) month extension for the filing of accounts for companies affected by the COVID-19 crisis; companies that are yet to file their accounts and not late in doing so can apply for the extension [here](#).

We will continue to monitor the UK Government's response to COVID-19, and will be publishing timely updates on significant developments.

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