

## UK GOVERNMENT EXTENDS EMERGENCY LEGISLATION TO PROTECT BUSINESSES UNTIL 31 MARCH 2021 - THE FINAL EXTENSION?

In an announcement on 9 December made by the UK Government, further temporary insolvency and other measures aimed at protecting business during the coronavirus pandemic which were due to expire at the end of the year, have now been extended by the UK Government until the Spring.

The measures that have been extended include:

- **statutory demands** served between **1 March 2020** and **31 March 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 **31 March 2021** unless it can be established that the insolvency is unrelated to the coronavirus pandemic; and
- **the moratorium preventing forfeiture of commercial leases** due to the non-payment of rent has also been extended **until 31 March 2021**.

These measures ensure that companies are shielded from creditor action during a period when companies are continuing to be impacted financially by coronavirus. For example, this means 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.

A further breathing space is provided to business tenants by the extension of the moratorium preventing landlords from forfeiting commercial leases based on rent arrears which will last until 31 March 2021. The moratorium was due to expire on 31 December 2020. The UK Government's aim is to allow tenants a further 3 months (a year in total) to reach arrangements with their landlords over rent to enable viable businesses to continue to operate. Although, it is described as the "final extension". To support these discussions, the Government will publish further guidance early next year to sit alongside the voluntary Code of Practice published in June.

In addition, a wide ranging consultation on landlord and tenant legislative reform has also been announced. It will be launched early next year and cover a range of issues including security of tenure regimes under the Landlord and Tenants Act 1954, rent payment models and the impact of coronavirus on the market. The stated aim is to "address concerns that the current framework

does not reflect the current economic conditions" and to "enable better collaboration between commercial landlords and tenants".

These latest extensions are in keeping with other temporary reliefs which were extended in the Autumn, including, for example, 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 April 2021**. There was also **a relaxation of company annual general meeting (AGM) requirements** which has also been extended to **30 March 2021**.

The new permanent insolvency measures introduced on 26 June 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**, 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 the Summer.

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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