



COVID-19 – Government Proposals on Insolvency Reforms

Following on from a series of financial measures to assist businesses through the current crisis, the Government turned its attention to amending corporate legislation to attempt to further assist cash strapped enterprises.

Two notable proposals were made in respect of insolvency law; a suspension of wrongful trading and a moratorium to protect those businesses undergoing a restructuring process.

Although these amendments will not be put to Parliament until after Easter, they will be back dated to 1 March. Given that the devil is always in the detail business owners must tread with care.

In terms of wrongful trading, this concession is not carte blanche to blame all on the virus:

- i. The exemption will only apply to companies that were solvent on 1 March, and
- ii. Other Insolvency Act measures such as preference, transfers at an undervalue and fraudulent trading are still in place.

The moratorium is more complex. Draft legislation in August 2018 provided for a moratorium for companies undergoing a restructure but not insolvent. This has met with much opposition, not in terms of principle, but in terms of mechanics. It is therefore difficult to envisage what this may look like when urgently passed through Parliament.

Areas of concern are:

1. How will Banks/Funders react? While the moratorium staves off creditors it cannot force the Bank to lend you money.
2. The Government announcement implied the moratorium is only available to companies undergoing a restructuring procedure. This will need to be defined but if it is in accord with the August 2018 definition this will apply to only a handful of (probably large) companies.

Until these proposals are enacted it would be folly to make assumptions as to what the specific reliefs are and how effective they might be. If you are likely to be affected by these changes either positively or negatively, take professional advice.

As always if you want more information, or if we can help in any other way, please get in touch.



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