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UK Extends Certain Temporary Insolvency-Related Measures in Light of COVID-19; Wrongful Trading Relief to Terminate

17 June 2021

At a Glance

Yesterday, 16 June, the UK Government [announced](#) plans to:

- extend restrictions on winding-up petitions and statutory demands until 30 September 2021;
- extend restrictions on forfeiture and commercial rent arrears recovery (“CRAR”) until 25 March 2022 or, if earlier, the enactment of new legislation to facilitate compromises between tenants and landlords in respect of COVID-19-related rent arrears by way of binding arbitration proceedings; and
- allow wrongful trading relief and other insolvency-related temporary measures to end on 30 June 2021.

These provisions are summarised below.

Temporary provision	Detail	End date
Restrictions on forfeiture	Commercial leases cannot be forfeited for non-payment of rent or other sums due between 26 March 2020 and the revised end date (see right); restrictions on landlords	Extended to 25 March 2022 or upon enactment of new legislation to facilitate compromises between

	using CRAR will likewise be extended	tenants and landlords in respect of COVID-19-related rent arrears by way of binding arbitration proceedings
Wrongful trading	Relaxation of directors' liability, under wrongful trading provisions, for any worsening of a company's financial position in the relevant period	Not extended - relevant period ends 30 June 2021
Statutory demands	Statutory demands made in the relevant period are void	Extended to 30 September 2021
Winding-up petitions and orders	<ul style="list-style-type: none"> • Suspension of winding-up petitions where a company's inability to pay is the result of COVID-19 • Restrictions on the court's jurisdiction to make a winding-up order 	Extended to 30 September 2021
Exemptions for small business suppliers from <i>ipso facto</i> restrictions	Small business suppliers are exempt from the prohibition on enforcement of <i>ipso facto</i> clauses (i.e., clauses allowing one party to a contract to terminate, or impose altered terms, solely on the basis of the insolvency of the counterparty – in contracts for the supply of goods or services)	Not extended - exemptions end 30 June 2021
Relaxation of moratorium conditions	Certain of the conditions to the commencement of a moratorium are eased	Remains 30 September 2021

The possibility of further extensions remains; the underlying discretionary power expires at the end of April 2022, such that underlying measures should not extend beyond the end of October 2022.

Most of the current COVID-19 temporary insolvency measures were due to expire on 30 June. This extension occurs in parallel with the extension of the UK Government's "road map" for lifting general COVID-19 restrictions, under which the lifting of restrictions has been pushed back from 21 June until at least 19 July 2021.

The Government has committed itself to avoiding a "cliff edge" for businesses when the temporary measures fall away. The Government yesterday announced plans for new legislation to help tenants and landlords work together to reach agreement on how to handle outstanding unpaid rent arrears accrued during periods in which the business had to remain closed owing to COVID-19 restrictions; failing consensus, legislation is expected to provide for a binding arbitration process. The Government will publish a formal response to its "call for evidence" on commercial rents and COVID-19 in due course; further information on the call for evidence is [here](#).

These changes attempt to strike a balance between the continued need for protection for businesses in certain sectors particularly adversely affected by COVID-19 and, on the other hand, permitting market forces to return to normal as the pandemic (hopefully) begins to draw to a close. Opinion will no doubt be divided depending on stakeholders' interests.

As ever, we are happy to discuss this further with interested clients.

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Suggested Reading

- 15 June 2021 Award Bankruptcy Tax Specialists in the Nation's Major Law Firms 2021
- 11 June 2021 Kirkland Alert English Court's Judgment in DTEK's Schemes of Arrangement Offers Guidance on International Effectiveness Post-Brexit
- 10 June 2021 Award The Legal 500 United States 2021

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