

EUROPEAN RESTRUCTURING WATCH ALERT

EXTENSION OF RESTRICTIONS ON STATUTORY DEMANDS, WINDING UP AND FORFEITURE TO 31 MARCH 2021

DECEMBER 2020

By Natasha Ayres

On 9 December 2020, the UK government gave businesses much-needed breathing space with an extension of insolvency measures.

The government announced that the current temporary restrictions on statutory demands and winding-up petitions put in place under the Corporate Insolvency and Governance Act 2020 ("CIGA"), and the prohibition on commercial landlords' right of re-entry or forfeiture for non-payment of rent under the Coronavirus Act 2020 will be extended until 31 March 2021, meaning landlords and other creditors will be prevented from exercising such rights until 1 April 2021.

The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2020 will come into force on 31 December and prolong the prohibition of the presentation of winding up petitions based on statutory demands served until 31 March, and continue the current restrictions on the presentation of winding up petitions under CIGA until 31 March 2021.

The Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 3) Regulations 2020 will come into force on 30 December and prolong the current restriction on commercial landlords' right of re-entry or forfeiture for non-payment of

rent until 31 March, bringing these restrictions in line with the prohibitions on winding up. According to the government's announcement today, this will be the final extension of this legislative support.

The current restriction on landlords using Commercial Rent Arrears Recovery (CRAR) to recover unpaid rent pursuant to the Taking Control of Goods (Amendment) (Coronavirus) Regulations 2020 (SI 2020/1002)) will also extend until 31 March. These regulations further increased the minimum amount of net unpaid rent that must be outstanding before CRAR may take place, currently set at 276 days' rent until 24 December, increasing to 366 days' rent from 25 December.

The above measures follow the recent reintroduction of the suspension of directors' liability for wrongful trading, effective from 26 November until 30 April 2021 pursuant to the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Suspension of Liability for Wrongful Trading and Extension of the Relevant Period) Regulations 2020. The previous suspension of liability ended on 30 September, and although the current extension is helpful, the gap in the suspension means that directors will be at risk of potential exposure for wrongful trading liability between 1 October and 25 November 2020.

If you would like more information about the topics raised in this briefing, please speak to your regular contact at Weil or to any of our London Restructuring Partners listed below.

Neil Devaney	View Bio	neil.devaney@weil.com	+44 20 7903 1199
Adam Plainer	View Bio	adam.plainer@weil.com	+44 20 7903 1030
Andrew Wilkinson	View Bio	andrew.wilkinson@weil.com	+44 20 7903 1068
Matt Benson	View Bio	matt.benson@weil.com	+44 20 7903 1009
Clare Cottle	View Bio	clare.cottle@weil.com	+44 20 7903 1048
Mark Lawford	View Bio	mark.lawford@weil.com	+44 20 7903 1050
Gemma Sage	View Bio	gemma.sage@weil.com	+44 20 7903 1419

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