

# COVID-19: UK GOVERNMENT ANNOUNCES END OF TEMPORARY RESTRICTIONS ON CERTAIN INSOLVENCY PROCEEDINGS

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## UK Restructuring and Insolvency Alert

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The UK government [has announced](#) that temporary restrictions on creditor action introduced in the Corporate Insolvency and Governance Act 2020 are to be phased out. These temporary restrictions were put in place to protect businesses in financial distress, as a result of the coronavirus (COVID-19) pandemic, from being forced into insolvency.

The current restrictions on the service of statutory demands and presentation of winding-up petitions by a company's creditors are to be lifted on 1 October 2021, save that, until 31 March 2022, certain restrictions imposed on commercial landlords will apply. Additionally, certain new temporary restrictions on the presentation of winding-up petitions are to be introduced.<sup>1</sup>

As described in an [earlier alert](#), the eviction ban for commercial leases and the restrictions on landlords' ability to recover rental arrears through the seizure of goods was previously extended until 25 March 2022. Further, an arbitration scheme in respect of commercial rent debts accrued during the pandemic was announced. The government has now confirmed that whilst the arbitration scheme is implemented, commercial tenants will continue to be protected from winding-up proceedings based on such debts. Thus, until 31 March 2022, a creditor may not present a winding-up petition in relation to an "excluded debt" namely rent, or any sum or other payment that a tenant is liable to pay under a "relevant business tenancy"<sup>2</sup> and which is unpaid by reason of a financial effect of COVID-19.

The effect of the additional temporary measures announced by the UK government is that, until 31 March 2022, the debt threshold for a winding-up petition will be £10,000 or more. Further, creditors will be required to give notice to and seek proposals from a debtor company and allow the debtor 21 days to respond before commencing winding-up proceedings.

This announcement reflects the hope that the economy is now returning to normal trading conditions. However, it will soon become apparent whether the package of measures put in place during the pandemic has protected otherwise healthy businesses or propped up zombie companies unable to survive without government support and protection from insolvency. Businesses must act quickly so as to be best placed if they or their counterparties face creditor action.

For commercial landlords wishing to recover rent or other arrears under a business lease that are unpaid by reason of a financial effect of COVID-19, insolvency proceedings remain unavailable pending the promised arbitration scheme.

## FOOTNOTES

<sup>1</sup> Following the entry into force of The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) Regulations 2021 (SI 2021/1029) (the Regulations) on 29 September 2021.

<sup>2</sup> Pursuant to clause 4 of the Regulations, “relevant business tenancy” means: (a) a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies, or (b) a tenancy to which that Part of that Act would apply if any relevant occupier were the tenant.

## KEY CONTACTS



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