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COVID-19: Insolvency, Wrongful Trading and AGM's

As previously reported, the Insolvency Service and UK Government were considering urgent changes to insolvency laws due to the impact of coronavirus to prevent companies unable to meet debts from being forced into liquidation as well as the associated consequences this might have for their Directors.

ANNOUCMENT ON INSOLVENCY MEASURES:

On Saturday 28 March 2020, the Secretary of State for Business, Energy and Industrial Strategy, the Right Honourable Alok Sharma MP announced a series of new measures to help businesses to enable UK companies undergoing a rescue or restructuring procedure to continue trading, giving them breathing space that could help them avoid insolvency.

Specifically, new restructuring tools will be incorporated into the UK's Insolvency Framework which shall include:

- **A moratorium for companies giving them breathing space from creditors enforcing their debts for a period of time whilst they seek a rescue or restructure;**
- **protection of their supplies to enable them to continue trading during the moratorium; and;**
- **a new restructuring plan, binding creditors to that plan.**

So as to protect creditors and suppliers it is intended that the proposals will include key safeguards whilst a solution is found to ensure they are paid in the interim period.

WRONGFUL TRADING PROVISIONS

The Secretary of State for Business, Energy and Industrial Strategy also announced on 28th March that there will also be a temporary suspension of wrongful trading provisions for company directors during the pandemic which will apply retrospectively from March 1st 2020. It is therefore, intended that this shall give Directors the ability to make decisions confidently using their best judgment to, so that they can continue trading during this time without the threat of personal liability

However, he added “... **to be clear, all of the other checks and balances that help to ensure directors fulfil their duties properly will remain in force**” thus referring to the fact that the existing laws for fraudulent trading and the threat of director disqualification shall remain as an effective deterrent against any misconduct by a Director.

MORE FLEXIBILITY WITH ANNAUL GENERAL MEETINGS:

Furthermore, during his briefing Mr Sharma also gave guidance on measures for companies with respect to holding annual general meetings in order to enable them to be able to do so

flexibly whilst still complying with public health guidance, He said, ***“This might include postponing or holding the AGM online, or by phone using only proxy voting”***

NEED HELP?

For more information or if you require any advice or assistance in dealing with the issues we have outlined and insolvency advice generally, please contact Niten Chauhan by email nchauhan@jpclaw.co.uk or telephone on 020 7644 7263 or on LinkedIn at: <https://www.linkedin.com/in/niten-chauhan-463a2147/>

Or if you need further advice or assistance on the wrongful trading and AGM measures, please contact Andrew Morgan amorgan@jpclaw.co.uk or telephone 0207 644 6303 or on LinkedIn at <https://www.linkedin.com/in/andrew-morgan-2a7054177/>