

Newman & Partners

Licensed Insolvency Practitioners

RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at insolvency@newmanandpartners.co.uk

Hospitality businesses at risk of insolvency if they don't get support soon

Forcing retail and hospitality businesses to try and repay rents next year could lead to their collapse, according to a joint letter from the British Retail Consortium (BRC) and UK Hospitality (UKH). The warning, sent to The Minister for Levelling Up, Housing and Communities Michael Gove and Business Secretary Kwasi Kwarteng, demands further clarity over the proposed rent arbitration system that is being created for commercial tenants and landlords.

In particular, the two organisations are concerned by the message from the Government that “those tenants that can pay in full should do so”. Kate Nicholls of UKH and Helen Dickinson of the BRC said that how businesses, landlords and the Government interpret this statement could prove crucial to the success of the arbitration system.

“A tenant’s ability to pay rent arrears will depend on their viability not just at the point of arbitration, but over the duration of the period in which they are expected to pay arrears. This must take into account arising liabilities and obligations of the business including reasonable forecasts of turnover and trading conditions,” they said.

They added that it was “vital that the criteria considered when determining whether a tenant can pay any rent arrears include any that would cause the tenant to take on further borrowing, restructure, not be able to meet other legal and contractual commitments, or place themselves at risk of insolvency or takeover”.

Details of the rent arbitration system were first announced in August, with it expected to be launched in March next year, just as the ban on commercial evictions ends. The industries most affected say businesses need a clearer picture of how the system will work in practice sooner.



As well as greater clarity on the arbitration system, the UKH and BRC have also suggested that the Government introduce a starting point equal to 50 per cent of “write-down of rent arrears” for those businesses worst affected by the Coronavirus crisis. They also want to allow a company’s auditors to sign a declaration regarding the extent of the rent arrears they can repay, which they claim would streamline the process for arbitrators by putting the burden of assessing viability on applicants.

With more than six million workers employed in these sectors and with their trading accounting for almost 10 per cent of GDP, there is a significant danger that a collapse caused by rents could lead to wider issues for the country and those businesses that support and supply retail and hospitality.

IF YOU HAVE CLIENTS OPERATING IN THESE SECTORS WHO ARE CONCERNED ABOUT THEIR VIABILITY IN LIGHT OF RENT ARREARS, PLEASE SPEAK TO US AS SOON AS POSSIBLE.

Government ends temporary insolvency measures but offers new support

The temporary insolvency protections, brought in to help businesses during the pandemic, are being phased out as the Government introduces new support measures. Since 1 October, several key restrictions to the temporary rules have been lifted as the nation begins its recovery.

Introduced through the Corporate Insolvency and Governance Act 2020 in June last year, the measures have protected companies in financial distress from creditor demands. The measures included restrictions on using winding-up processes and temporary changes to wrongful trading rules that helped viable businesses affected by the restrictions on trading to remain solvent.

Recognising that some businesses still need further support, the Government has introduced additional measures that will “help smaller companies get back on their feet”. Aimed primarily at businesses on the high street, such as retailers and those in the hospitality and leisure sectors, the new legislation includes new laws that protect businesses from creditors insisting on repayment of relatively small debts by temporarily raising the current debt threshold for a

winding up petition to £10,000 or more.

Creditors will also be required to seek proposals for payment from a debtor business, giving them 21 days for a response before they can proceed with winding up action. Businesses will, therefore, have more time to get their affairs in order and stave off insolvency. These temporary measures will remain in force until 31 March 2022 to help the hardest-hit industries.

Business Minister Lord Callanan said: “The success of our vaccine rollout means we are seeing life and the economy returning to normal with a strong rebound, and the time is right to lift the insolvency restrictions that were needed during the pandemic. At the same time, we know many smaller businesses are rebuilding their balance sheets and reserves, and some will need more time to get back on their feet. These

new measures protections will help them to do that.”

The new measures will work alongside the existing restrictions on commercial landlords that prevent them from winding up limited companies that cannot repay commercial rent arrears built up during the pandemic. Commercial tenants also remain protected from eviction until 31 March 2022, while the Government implements a rent arbitration scheme to deal with commercial rent debts. Despite these two measures, the Government has said that businesses should continue to pay contractual rents, where possible.

IF YOU OR A CLIENT ARE UNSURE HOW THESE LATEST CHANGES AFFECT A BUSINESS'S INSOLVENCY, PLEASE CONTACT OUR EXPERIENCED TEAM NEWMAN AND PARTNERS TODAY.

Winter worries – How the UK's supply and labour shortage are putting businesses at risk

You can't avoid the news of yet more supply and labour shortages hitting UK businesses and consumers at the moment. Although plans are now underway to try and ease this latest crisis, the reality is that some businesses face a challenging winter – especially as prices rise and force inflation higher.

The reasons for the current shortage of labour, in particular, drivers, hospitality and retail workers, are varied. Similarly, a shortage of certain supplies, such as computer chips used in the production of electronics and cars, seems to be a worldwide issue, in part caused by the pandemic. Inevitably these factors are driving up employment and supplier costs to sometimes unmanageable levels.

Beyond these issues, businesses also have to contend with a price increase from energy firms, as much of Europe is hit by political wrangling over an important gas line to Russia. The overall impact is quite significant and may hamper the nation's recovery from COVID-19 in the weeks and months ahead.

As mentioned, to fix part of this issue, the

Government has plans for temporary visas for 5,000 foreign lorry drivers but the British Chamber of Commerce (BCC) has described this measure as ‘a thimble of water to put out a bonfire.’ The latest employment figures suggest there are over a million job vacancies currently, which means that businesses may face a tough time recruiting and retaining key employees.

The current crisis all amounts to rising costs for businesses, which must adapt to new circumstances. Given this new period of uncertainty businesses should:

- Plan for future fuel shortages
- Assess their gas and electricity prices and seek out better tariffs
- Build a strategy for taking on staff as well as retaining key workers

- Seek out new suppliers that can provide the materials and services needed
- Outsource business functions to reduce costs and the reliance on certain skills
- Consider how rising supplier costs will affect their end product prices and underlying profits and investments.

REGULARLY REVIEWING THE COSTS WITHIN YOUR BUSINESS AND CREATING A CRISIS STRATEGY ARE BOTH ESSENTIAL STEPS IN BUILDING GREATER RESILIENCE. WITH AN UNCERTAIN FUTURE AHEAD OF US, NOW IS THE TIME TO TAKE ACTION. TO FIND OUT HOW WE CAN HELP BUSINESSES FACING INSOLVENCY, PLEASE CONTACT US.

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