

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

Temporary insolvency measures to help businesses are scrapped

Temporary insolvency measures, introduced to protect businesses unable to trade because of the COVID-19 pandemic, have been scrapped.

The insolvency regime is returning to its pre-pandemic operation. The Corporate Insolvency and Governance Act 2020 introduced various temporary measures to help protect companies affected by the lockdown restrictions during the pandemic.

The restrictions on the winding up of companies were lifted on 31 March 2022. This means the legal regime governing insolvency has returned to its pre-pandemic approach. Most of these measures expired at the end of June and September 2021, except for restrictions on winding up companies, which were extended until 31 March 2022.

The legislation was designed to support businesses that had suffered cash-flow problems as a result of reduced pandemic trading, largely affecting retail and tourism. The temporary measures aimed to protect companies from aggressive creditors and established new requirements for winding-up.

These included giving notice to a company with 21 days to respond with proposals for payment, a minimum debt owed of £10,000 and a petition could not be presented for commercial rent unless non-payment of the debt was unrelated to the pandemic. From the beginning of April, creditors are able to issue winding-up petitions against debtors who have not paid the sums they owe using the procedures under the pre-pandemic rules.

There is no need to give notice and the debt can now be £750 (or more), much



lower than the temporary threshold of £10,000. Creditors seeking to recover commercial rent arrears will have to consider whether they are 'protected rent debts' under the new Commercial Rent (Coronavirus) Act which came into force on 25 March 2022.

That means a legally binding arbitration process will be available for eligible commercial landlords and tenants who have not already reached an agreement. This will resolve disputes about certain pandemic-related rent debt and help the market return to normal as quickly as possible.

It is very likely that the number of winding up petitions will increase as creditors'

powers to pursue unpaid debts return to normal. The end of the moratorium will see more businesses become vulnerable to creditor action directors of companies in financial difficulties should seek advice on the options available to them to restructure their debts and avoid insolvency.

IF YOU OR A CLIENT OF YOURS IS STRUGGLING WITH DEBT OR THEY ARE A CREDITOR WITH CONCERNS ABOUT DEBTORS, WE CAN HELP. TO FIND OUT MORE ABOUT OUR WIDE RANGE OF BUSINESS RECOVERY AND INSOLVENCY SERVICES, PLEASE CONTACT US.

Businesses should be prepared for the headwinds of interest rate rises

Interest rates have been at record lows for more than a decade after the financial crash caused chaos in the economy. Now they have started to creep up as business gets back to normal and faces increased costs.

The Bank of England Monetary (BoE) Policy Committee raised UK interest rates to 0.5 per cent in February, as it responded to inflation hitting its highest level in 30 years and has hit seven per cent this month. According to the Financial Times, markets now expect interest rates to increase by at least one per cent by May, and by another 1.5 per cent by November – a level that was not expected until March next year.

Add to this the energy price cap, which restricts how much suppliers can charge in Great Britain, has increased from 1 April by £693. This presents a potentially toxic brew of rising inflation, relatively weak wage growth, higher taxes, rising interest rates and energy bills. It now becomes urgent for businesses to review their costs and expenditure and try and prepare for stormy weather ahead.

Dealing with interest rates is a problem most businesses must face and while you cannot cover every eventuality, you can plan to shield yourself from risk. In the case of interest rates, businesses should be more mindful of whether it's a good time to take out a new loan.

Overborrowing in an environment where rates are rising must be avoided as increased interest on credit cards and existing loans will lead to higher repayments. In some cases, the business may end up paying off the interest only, rather than the loan itself.

Currency exchange is another area to think about as higher interest rates can increase the value of a currency. If businesses have income streams in foreign currencies, then rising interest rates, and in turn, rising sterling, will affect a company's profits.

Carefully worded forward contracts can be used to mitigate the risk of exchange-rate differences where you have foreign currency transactions.

It is not just you who may be affected by rising interest rates and even if you are not affected, suppliers probably will be, leading to increased prices for your goods. Fixed price contracts can mitigate some of the risks, although interest rate increases force companies' hands, with inflation driving up costs.

IF YOU OR A CLIENT OF YOURS IS STRUGGLING BECAUSE OF INTEREST RATE RISES, WE CAN HELP. TO FIND OUT MORE ABOUT OUR WIDE RANGE OF BUSINESS RECOVERY AND INSOLVENCY SERVICES, PLEASE CONTACT US.

Over a third of IVAs failing to complete, according to Government figures

There is an increasing number of individual voluntary arrangements (IVAs) that are failing to complete. This means that the borrower's debt is returned to them, according to a report from the Government's Insolvency Service. An IVA is a formal alternative in England and Wales for individuals wishing to avoid bankruptcy. In Scotland, the equivalent statutory debt solution is known as a protected trust deed.

The report found that 32 per cent of IVAs started in 2016 have failed – the highest since 2009 and warned that these numbers are likely to increase further as many IVAs from these years remained ongoing as of 31 December 2021. The reduction in early terminations in the past two years coincided with the temporary guidance for the IVA protocol effective between 20 April 2020 and 31 December 2021 in response to the COVID-19 pandemic.

The initial version of the guidance allowed individuals with existing IVAs to reduce payments by up to 25 per cent and take a payment holiday of up to three months. This was increased to (up to) a 50 per cent reduction in payments and up to a six-month payment holiday in September 2020.

In 2021, 81,199 IVAs were registered. This was the highest annual number in the time series going back to 1990, continuing an increasing trend in IVA numbers.

The emergency provisions enabled people to have longer repayment holidays, and consequently termination rates fell – bringing distorted statistics. Therefore, it will take longer for these IVAs to be completed. Until then, more are set to fail as emergency breaks have ended, and a severe hike in fuel and energy prices puts pressure on the ability to pay.

According to the Insolvency Service, in England and Wales, one in 26 IVAs (3.8 per cent) registered with them in 2020 terminated within one year of being

approved. Two- and three-year IVA termination rates (for IVAs registered in 2019 and 2018 respectively) also decreased compared to IVAs registered in the preceding years. Care needs to be taken when setting an IVA payment which may sound affordable now but may not be in a couple of years' time. The high failure rates show that for too many people their IVA has turned into a nightmare and people are left with substantial debt.

IF YOU OR A CLIENT OF YOURS IS STRUGGLING WITH IVAs, WE CAN HELP. TO FIND OUT MORE ABOUT OUR WIDE RANGE OF BUSINESS RECOVERY AND INSOLVENCY SERVICES, PLEASE CONTACT US.

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