

CLIENT ALERT

The United Kingdom's COVID-19 Measures to Assist Business

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In the last few weeks the United Kingdom Government has introduced a variety of relief measures for businesses as the COVID-19 crisis escalates. Not all these measures are yet in force e.g. insolvency measures and annual general meeting formalities, as the legislation to implement these measures has not yet been adopted.

The alert covers changes to or schemes to assist:

- Corporate formalities
- Insolvency rules
- Lease payments
- Tax administration
- Business financial solvency
- Employee pay through the Coronavirus Job Retention Scheme and changes to statutory sick pay

Corporate

- *Annual general meetings (AGMs)* – Companies required by law to hold AGMs will temporarily be afforded greater flexibility by being allowed to hold AGMs online or postpone the AGMs.
- *Companies House accounts filing* – Companies can apply for a 3-month extension to file their accounts, in order to avoid an automatic late-filing penalty.
- *Stamp duty payments to HMRC* – HMRC will not be stamping stock transfer forms as it has temporarily changed the way it deals with stamp duty paid on the purchase of shares using a stock transfer form. Payments should be made electronically, with details of the transaction emailed to HMRC. HMRC will accept e-signatures on stock transfer forms. If the stamping application is approved, HMRC will send a confirmation letter by email.

We have covered matters regarding corporate formalities and filings in more detail in [Temporary Measures for U.K. Listed Companies: Financial Reporting, Disclosure Obligations, Company Meetings and Capital Raisings](#).

Insolvency

- *Wrongful trading* – Wrongful trading provisions are to be temporarily suspended retrospectively from 1 March 2020 for three months. This will allow directors to continue trading during the pandemic, and avoid personal liability, where they consider that there is no reasonable prospect that the company will avoid going into insolvency.
- *New restructuring tools* – New tools will be introduced, including: (i) a moratorium for companies allowing them time to explore rescue options while preventing creditors from enforcing their debts; (ii) protection of supplies to enable

companies to continue trading during the moratorium; and (iii) a new restructuring plan, binding dissenting stakeholders to that plan. There is a proposal to introduce safeguards for creditors and suppliers to ensure they are paid while a solution is sought.

We have also covered other matters affecting insolvency in [U.K. Government Faces Urgent Pressure to Reform Insolvency Law](#).

Leases

- *Protection from eviction for commercial tenants* – Commercial tenants who cannot pay their rent because of COVID-19 will be protected from eviction. These measures will mean no business will automatically forfeit their lease and be forced out of their premises if they miss a payment up until 30 June. There is the option for the Government to extend this period if needed. This is not a rental holiday as all commercial tenants will still be liable for the rent.

Tax

- *Deferral of VAT payments* – A U.K. VAT registered business with a VAT payment due between 20 March 2020 and 30 June 2020 may defer the payment for three months.
- *Self-Assessment payments* – Such payments on account due by 31 July 2020 may be deferred until January 2021.
- *Business rates* – Introduction of a business rates holiday for the 2020 to 2021 tax year for all retail, hospitality, leisure and nursery businesses in England.
- *The HMRC Time To Pay Scheme* – All businesses in financial distress and with outstanding tax liabilities, may be eligible to receive support with their tax affairs through HMRC's Time To Pay service. This is agreed on a case-by-case basis and is tailored to individual circumstances and liabilities.

Finance

- *The Coronavirus Business Interruption Loan Scheme* – This will offer loans, overdrafts, invoice finance and asset finance to SMEs of up to £5 million and for up to 6 years through the British Business Bank. The government will also make a Business Interruption Payment to cover the first 12 months of interest payments and any lender-levied fees, so smaller businesses will benefit from no upfront costs and lower initial repayments. The government will provide lenders with a guarantee of 80% on each loan. We cover this scheme in more detail in [Coronavirus Business Interruption Loan Scheme – Key Points](#).
- *COVID-19 Corporate Financing Facility* – This is a new lending facility from the Bank of England to help support liquidity among larger non-financial firms, helping them bridge disruption to their cash flows through loans. The Bank of England will buy short term debt from larger companies. This will support companies affected by a short-term funding squeeze, allowing such companies to finance short-term liabilities.

Coronavirus Job Retention Scheme

On 20 March 2020 the Government announced the Coronavirus Job Retention Scheme, which will last at least until 31 May 2020. All employers are eligible for the scheme. It provides for HMRC reimbursement of employee costs for furloughed workers as follows:

- The scheme applies to any type of employee contract, whether full-time, part-time, agency, flexible and zero-hours (including for employees on contractual parental leave);
- The relevant employee was on the payroll on 28 February, or made redundant since that date and rehired. Reimbursement claims may be backdated to 1 March 2020;
- 80% of the employee's usual monthly wage costs (excluding bonus and commission) up to a cap of £2,500 per month;
- Employer National Insurance Contributions;
- Minimum employer pension contributions.

"Furloughed" is defined as a leave of absence of at least 3 weeks. The employee must not perform any work or generate any revenue for the employer. An employee can be furloughed more than once in consecutive periods. Employees with more than one job may be furloughed by each employer, and each employer is eligible to claim reimbursement according to the criteria above.

In cases of variable pay, for workers with less than 12 months of employment their monthly earnings should be averaged to generate the qualifying monthly wage cost. For those employed longer than 12 months, the eligible wage cost is the higher of the same month's earnings in the previous calendar year or their average monthly earnings in the 2019-20 tax year.

For the employer, reimbursements count as income for the purposes of the calculation of profits.

The scheme is not intended for employees undertaking self-isolation on Government guidance or illness, including illness derived from COVID-19. Changes to U.K. statutory sick pay owing to the crisis are discussed below.

How to take part in the scheme:

- Write to each furloughed employee confirming that they have been furloughed and keep a record of the communication.
- Make claims to HMRC under the scheme here (which the Government expects to be live by 20 April 2020).

Statutory Sick Pay Changes

Standard statutory sick pay is available for employees who earn over £118 per week (£120 from 6 April 2020) when absent from work due to sickness with eligibility running from the fourth day of absence. The statutory pay amount is £94.25 per week (£95.85 from 6 April 2020).

However, under the Coronavirus Act 2020, two changes have been made:

- For absences from 13 March 2020 if an employee is observing self-isolation according to NHS [guidance](#) for COVID-19, they are counted as sick and eligible for statutory sick pay from the first day of isolation. An “isolation note” from NHS 111 is now [available](#).
- The Government will refund employers with fewer than 250 employees at 28 February 2020 up to 14 days of statutory sick pay paid to any employee who is either ill or required to self-isolate because of COVID-19 from 13 March 2020. An employer who fraudulently or negligently receives a refund is liable to a penalty of up to £3,000.

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The Government has published a general [guidance](#) website for businesses, including the matters discussed here.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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