

# Restructuring update - 30 March 2020

As the country continues to feel the impact of the coronavirus, we cover some of the practical implications that the lockdown is creating for the insolvency world.

*Please speak to the PM restructuring team if you require any further information regarding anything covered in this update.*

## The courts

- The CE-file is still up and running meaning that administration appointment documents and winding-up petitions can still be e-filed. The ORs deposit for winding-up petitions can still be paid over the telephone.
- Winding –up petitions have been adjourned across the country. In London the adjournment is for 12- 19 weeks.
- Bankruptcy petitions in the Rolls Building in London have been adjourned until after 18 June 2020.
- Whilst it is still possible to carry out winding up and bankruptcy searches, it is not possible to search the Bacchus Terminal to see if a bankruptcy petition has been filed in the Central London County Court.
- Hearings are generally being adjourned, held by telephone or video conference or dealt with on paper. The court has issued [guidance](#) on remote hearings and a new [practice direction](#).

## E-signatures

- The Law Commission supports the use of e-signatures on ordinary contracts, although certain entities (such as the Land Registry) will not accept e-signatures.
- There is no precedent as to whether e-signatures can be used on insolvency forms, such as administrators' appointment documents, but if the signatory does not have access to a printer or scanner this may be the only option.
- It is preferable to use a third party platform such as DocuSign to obtain e-signatures.
- Deeds can be executed by e-signature. However, witnessing a deed still needs to be done in person.

## Statutory declarations

- Many insolvency documents such as notices of intention to appoint and notices of appointment of administrators require a statutory declaration.
- The Statutory Declarations Act 1835 did not envisage remote swearing. It is uncertain whether a statutory declaration can be validly made via Skype/Facetime.
- R3 are collating a list of solicitors who are willing to swear statutory declarations in person and hope to have a register by 30 March 2020.

## HM Land Registry

- A solicitor needs to be in possession of a wet ink signature on a charge to be able to register it at the Land Registry.

## Amendment of Insolvency legislation

- A number of countries have relaxed their insolvency regimes and directors' duties requirements during the current crisis.
- On 28 March 2020 the government announced changes to enable UK companies undergoing a rescue or restructure to continue to trade, giving them breathing space to help avoid insolvency. The proposals include:
  - implementation of a short moratorium (as has been previously consulted upon); and
  - a temporary suspension of wrongful trading provisions retrospectively from 1 March 2020 for three months for company directors so that they can keep their businesses going without the threat of personal liability under s214 of the Insolvency Act..
- Legislation will be introduced in Parliament at the earliest opportunity.

## Scotland

- **Court of Session** – On 23 March 2020, the court cancelled all non-essential business for, initially, three weeks. Our instructions are not to contact, telephone or e-mail the Court of Session or High Court of Justiciary except to deal with the most urgent business. The Rolls of Court will not be published during the next three weeks.
- **Sheriff Courts** – From 25 March 2020, all court business will be adjourned or continued administratively except for (i) cases where the accused is in custody (ii) appearances for undertakings and (iii) emergency civil applications (note also the Sheriff courts have consolidated business into 10 courts).
- **Registers of Scotland** - The Registers of Scotland have temporarily closed the application record, meaning that it will [not be possible](#) to register security over land in Scotland. A digital solution to allow applications to be submitted online is being worked on, but there is no current timescale. As a standard security is only registerable at Companies House after it has been registered at the Land Registry, it will not be possible to register at Companies House.

However, the 21 day period for registration at Companies House is not triggered until the date on which the Land Register registration is completed, so it is still possible for the bank to take a standard security from a customer and hold it pending completion of the registrations at the Registers of Scotland and Companies House, at which point a valid security interest will be created.

## UK restructuring team

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