

## New criteria for Winding-Up Petitions

The current temporary restrictions on the use of statutory demands and company winding up petitions that were introduced by the Corporate Insolvency and Governance Act 2020 to protect businesses affected by the Coronavirus pandemic were due to expire on 30 September 2021. [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Amendment of Schedule 10\) Regulations 2021](#) came into force on 1 October 2021 and introduces the following new criteria:

1. Increasing the debt that must be owed to present a company winding up petition to £10,000;
2. Creditors must seek proposals from the debtor business for repayment of the debt giving 21 days to respond before they can proceed with a winding up petition; and
3. Commercial Landlords must still show that debts are not Coronavirus related until 31 March 2022.

These new criteria will apply until 31 March 2022 unless they are extended.

Whether this is a welcome change largely depends on your position as either a creditor or a debtor. For creditors who have not been able to enforce their debts, these changes will at least add an element of jeopardy for the debtor if they do not address the debt. But adding a delay of 21 days is more likely to accelerate the process. Most responsible creditors will already have sought a repayment proposal before going to the time and cost of a winding up petition. The logical process for a creditor seeking repayment proposals would be to do it in a more formal way by adopting the procedures required under these new rules.

For debtors, the addition of a 21 day period is unlikely to have a useful impact. For responsible debtors will have already offered payment plans. The requirement in the regulations is not simply that the debtor must make proposals, but they have to make proposals to the creditor's satisfaction. Arguably the 21 day period does allow a breathing space before action, but the debtor must use this wisely and consider not just the creditor in question but the rest of the creditors. This would be an ideal time for them to seek our advice on the best way forward for the company as a whole and not just deal with one debt at a time.

As always, if your clients are facing insolvency issues or are looking to close their business please get in contact with us to discuss how we can help. [McKay Business Solutions Ltd](#)

By Chris McKay

