

TEMPORARY CHANGES TO INSOLVENCY AND BANKRUPTCY LAWS DUE TO COVID-19

The Federal government announced on Sunday that it intends to temporarily make amendments to legislation to give effect to some relief to be provided to individuals, companies and their directors facing financial difficulty in the current Covid-19 pandemic induced economic crisis.

Those changes will result in amendments to the Corporations Act 2001, the Bankruptcy Act 1966 and otherwise government directives to their departments.

1. Statutory Demands

Changing the minimum threshold from \$2,000 to \$20,000;

Extending the date for payment on the issue of a statutory demand from 21 days to 6 months.

2. Insolvent Trading

Relieving directors from any personal liability for insolvent trading in relation to debts incurred in the ordinary course of business to apply for 6 months;

However, companies will still be liable for debts and criminal penalties will remain for egregious cases of dishonesty and fraud.

3. Bankruptcy Proceedings

Increasing the threshold for initiation of proceedings from \$5,000 to \$20,000 for 6 months;

Extending time for payment of a bankruptcy notice from 21 days to 6 months;

Extending the period of protection a debtor receives after making a declaration of intention to present a debtors' petition (from 21 days to 6 months).

4. Tax Payments and Enforcement

The ATO will consider, temporary reductions of payments or deferrals, and withholding enforcement actions including Director Penalty notices and refraining from any actions directed at winding up tax payers for non-payment.

5. Targeted Relief

Temporary instrument making power given to the treasurer in the Corporations Act to provide targeted relief for companies.

These changes have not yet been enacted and until they are, the status quo remains. It is anticipated these changes will be made urgently by the Federal Government and may have some degree of retrospectivity once brought into effect.

Please do not hesitate to contact Lisa Andonis of our office should you wish to discuss the above further or need advice as to your particular circumstances.