



## Winter is Coming – COVID-19 Changes Insolvency Law

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The unprecedented financial impact of COVID-19 has forced the laws surrounding insolvencies to change - well at least temporarily. Analogous to the process of containing the virus, the Government is currently deciding on temporary changes to also flatten the curve of the inevitable insolvencies following this pandemic.

The Treasurer has been given a temporary instrument-making power in the *Corporations Act 2001*, for a period of six months, in order to provide temporary relief to distressed businesses. This was announced by the Government on 12 March 2020.

By way of summary these changes may include the following:

1. A temporary increase in respect of the debt for which creditors may issue a statutory demand - from \$2,000 to \$20,000;
2. Further, extension of the time for compliance with a statutory demand - from 21 days to six months;
3. An increase in the threshold for initiating bankruptcy proceedings;
4. An extension to the compliance period in respect to responding to a bankruptcy notice;
5. An extension to the moratorium period after making a declaration of intention to present a debtor's petition; and
6. temporary relief to directors from personal liability for insolvent trading.

Should these changes be made, it is expected that it will apply for a period of six months.

The ATO has also advised that they will implement solutions for these circumstances to assist owners or directors in need through implementing changes in respect to wind-ups such as withholding any enforcement action.

Many government bodies have indicated their pragmatic approach to applying the laws such as the Australian Securities and Investments Commission and Australian Prudential Regulation Authority.

The final details of the proposed amendments have not been released. However, drafts of bills are expected to be introduced in the week of 23 March 2020.

Matthews Folbigg Lawyers continues to keep up to date with the developments and rapid changes occurring as this is an imperative time for both individuals and businesses to be informed.



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For more information, please visit:

- <https://treasury.gov.au/coronavirus>
- [https://treasury.gov.au/sites/default/files/2020-03/Overview-Economic-Response-to-the-Coronavirus\\_0.pdf](https://treasury.gov.au/sites/default/files/2020-03/Overview-Economic-Response-to-the-Coronavirus_0.pdf)
- <https://www.ato.gov.au/General/New-legislation/The-Australian-Government-s-Economic-Response-to-Coronavirus/>
- [https://treasury.gov.au/sites/default/files/2020-03/Fact\\_sheet-Providing-temporary-relief-for-financially-distressed-businesses.pdf](https://treasury.gov.au/sites/default/files/2020-03/Fact_sheet-Providing-temporary-relief-for-financially-distressed-businesses.pdf)

Matthews Folbigg Lawyers has a specialist team dedicated to Insolvency, Restructuring and Debt Recovery. If you would like more information or advice in relation to Insolvency, Restructuring or Debt Recovery practice and procedure, please contact Stephen Mullette or Jeffrey Brown on (02) 9806 7459 or (02) 9806 7446, or email [stephenm@matthewsfolbigg.com.au](mailto:stephenm@matthewsfolbigg.com.au) or [jeffreyb@matthewsfolbigg.com.au](mailto:jeffreyb@matthewsfolbigg.com.au).