

## **INSOL Europe/LexisNexis coronavirus (COVID-19) Tracker for Insolvency reforms—Channel Islands update**

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**Restructuring & Insolvency analysis: We look at the reforms to the insolvency law of the Channel Islands prompted by the coronavirus (COVID-19) pandemic. Written by Stephen Alexander, partner & advocate, Mourant Ozannes, Jersey (INSOL Europe member) and Abel Lyall, partner & advocate, Mourant Ozannes, Guernsey.**

In Jersey, the government has implemented some of the following measures to ensure that people can remain in employment, businesses can remain open and can restart trading following the lifting of the current social distancing restrictions:

- Coronavirus Payroll Co-Funding Scheme—giving eligible businesses access to funding from 1 April 2020 to 30 June 2020
- Jersey Business Disruption Loan Guarantee Scheme—giving eligible businesses with a turnover of less than £10m the ability to borrow between £5,000 and £500,000, with 80% of the loan being underwritten by the government
- Jersey COVID-19 Special Situations Fund—giving eligible businesses the ability to apply for a loan, grant or equity injection from the government
- deferral of social security and GST payments through 30 June 2020
- deferral or renegotiation of rent where the government is a landlord

In the meantime, the government is continuing to consider insolvency specific legislative reforms. It is expected that these will include a government statement designed to give guidance to directors of Jersey companies as to the application and enforcement of Jersey's wrongful trading rules. Government officials have liaised with the Viscount, the Law Society, and the Association of Restructuring and Insolvency Experts to co-ordinate the release of a Guidance Note from the Viscount and a Practice Statement from the Law Society, intended to assist directors of a Jersey company to understand the position and what steps they may wish to consider depending on the particular circumstances of their company as to the application and enforcement of Jersey's wrongful trading rules. On 13 May, the Guidance Note and the Practice Statement from the Law Society have been published at: <https://www.gov.je/Health/Coronavirus/BusinessAndEmployment/pages/guidanceforbusinessonwrongfultrading.aspx>

It is noteworthy that Jersey's existing wrongful trading rules are more relaxed than the equivalent UK rules. Once a director concludes (or should have concluded) that there was no reasonable prospect of the company avoiding a declaration of bankruptcy or an insolvent winding-up, the director has a duty to take reasonable steps with a view to minimising the potential loss to the company's creditors (failing which the director may be made personally liable for the company's debts). In the UK the equivalent test is that the director must take every step with a view to minimising the potential loss to the company's creditors.

Guernsey has also implemented a number of measures to maintain employment and to financially assist eligible businesses during the period of shutdown:

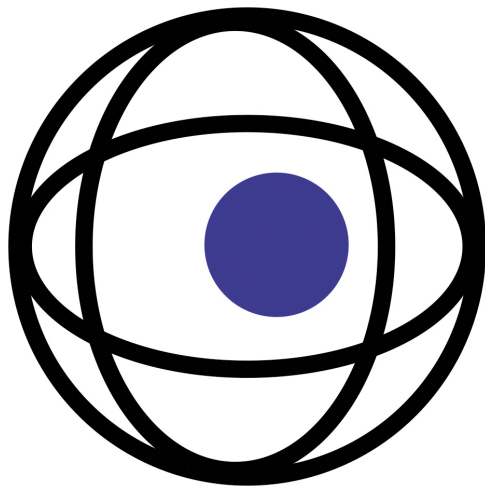
- Payroll Support Scheme—introduction of a payroll co-funding scheme similar to that in the UK whereby employers can access a grant to cover 80% of the statutory minimum wage (£8.50 an hour) on the understanding that the employer pays at least the other 20%. From 4 May 2020, this scheme was amended so that the level of support is linked to the loss of income experienced by the business compared to 2019. Eligible businesses that have a turnover below 40% of normal levels will be entitled to 100% of the statutory minimum, while those experiencing between 40% and 70% are entitled to the original 80%

- Guernsey has agreed to underwrite 80% of any qualifying loan made by participating banks to any trading business with less than £10m turnover
- any business with less than ten staff as well as the self-employed may apply for a one-off hardship grant of £3,000
- other measures to support business include the deferral of Social Insurance contributions, local business rates and rent owed to States entities

Guernsey introduced significant amendments to its corporate insolvency laws in January 2020, which are expected to come into effect shortly. There are no plans at present to introduce further changes to insolvency laws in order to address specific challenges arising from coronavirus, though developments in the UK are likely to be closely monitored.

### **INSOL Europe/LexisNexis COVID-19 Tracker of Insolvency Reforms**

A tracker of insolvency reforms globally produced by LexisNexis in partnership with INSOL Europe is now available: [Coronavirus \(COVID-19\) Tracker of insolvency reforms globally](#).



# INSOL EUROPE

We look at various countries worldwide which are expediting reforms to their restructuring and insolvency laws, temporarily suspending onerous insolvency law provisions, increasing limits for statutory demands, suspending enforcement powers and introducing other measures to deal with the coronavirus crisis. As the situation is rapidly evolving with more countries adding new measures daily, you should contact local lawyers in the relevant jurisdiction to check the current measures in force.