



The Insolvency
Service

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DEAR INSOLVENCY PRACTITIONER
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Message from the Insolvency Service

Dear Reader

Please find enclosed the latest updates from the Insolvency Service.

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106) HMRC: Customs Authorisations and Insolvency

Many businesses involved in international trade hold customs authorisations. This article is being issued to assist insolvency practitioners in their understanding of the customs activities of a business when they are appointed.

Here are some of the Customs Authorisations that a business may hold:

- Inward Processing
- Outward Processing
- End-Use
- Customs Warehousing
- Customs Freight Simplified Procedures (CFSP)
- Authorised Economic Operator (AEO).

Insolvency practitioners, when they are appointed, become responsible for the correct operation of the authorisations, and for compliance of the conditions and obligations associated with any authorisation. The incorrect discharge or handling of goods can result in the creation of a customs debt.

Insolvency practitioners need to do the following upon appointment:

- Identify if the insolvent entity holds any customs authorisations
- Identify the goods currently held under those authorisations
- Notify the supervising office (stated on the authorisation) that the business is insolvent
- Ensure that any goods held under a customs authorisation/special procedure are correctly disposed of.

These conditions and obligations are detailed in the:

- Authorisation itself
- [Union Customs Code \(UCC\)](#)
- [Implementing and Delegated Act to the UCC.](#)

Following the end of the EU Transition period the conditions and obligations will be reflected in UK legislation.

Businesses may also hold other customs facilities such as a Duty Deferment Account (identified through a Duty Deferment Account Number or DAN) and a Comprehensive Customs Guarantee (CCG).

To establish the status of any Duty Deferment Account, and to resolve any issues around Deferment debts, please contact the HMRC Duty Deferment Team at cdoenquiries@hmrc.gov.uk.

All customs authorisations require the supervising office to be notified of any changes that may affect the operation of the authorisation. For example, when a business enters insolvency, the supervising office must be notified. Details of the supervising office will be shown on the authorisation.

In some circumstances it is possible that goods may be held under a special procedure, without the possession of a written authorisation. These goods will have entered the special procedure through authorisation by declaration. The goods will still need to be disposed of in accordance with the procedure.

In these cases practitioners should contact the [National Import Reliefs Unit \(NIRU\)](#) as well as the usual Customs and International Trade contact point for the business if one exists.

It is important to note that authorisations cannot be transferred between legal persons.

70) Report to the Secretary of State of the approval of an Individual Voluntary Arrangement (IVA)

This article is to remind insolvency practitioners of the requirements when filing a report of an approval of an IVA with the Secretary of State.

Rule 8.26 (2) of The Insolvency (England and Wales) Rules 2016 requires that:

The report must be delivered as soon as reasonably practicable, and in any event within 14 days after the report that the creditors have approved the IVA has been filed with the court under rule 8.24(3) or the notice that the creditors have approved the IVA has been sent to the creditors under rule 8.24(5) as the case may be.

The Insolvency Service will inform the appropriate Recognised Professional Body where there has been a late filing of an IVA with the Secretary of State in relation to the above rule.

Enquiries regarding this article may be sent to:
IPRegulation.section@insolvency.gov.uk

36) Revival of suspension of wrongful trading provisions of sections 214 and 246ZB of the Insolvency Act 1986

Summary

When considering liability for wrongful trading, directors may not be held responsible for any worsening of the financial position of the company between 26 November 2020 and 30 April 2021. The latter date is subject to change if the suspension of wrongful trading liability is no longer required to prevent companies which would be viable but for the impact of the pandemic from entering insolvency proceedings unnecessarily.

In addition, the period during which temporary relaxations to the manner in which company AGMs and other meetings must be held, as provided for by the Corporate Insolvency and Governance Act 2020 (the CIG Act), has been extended to 30 March 2021.

Background

The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Suspension of Liability for Wrongful Trading and Extension of the Relevant Period) Regulations 2020 were laid before Parliament on Wednesday 25 November 2020. This instrument is subject to the “made affirmative” procedure, so comes into force on 26 November, but is subject to debate and approval by both Houses.

The instrument uses the power in section 20 of the CIG Act to modify the effect of sections 214 and 246ZB of the Insolvency Act 1986, so that they do not apply to any worsening of the financial position of the company between 26 November 2020 and 30 April 2021 inclusive. The purpose of this is to remove the deterrent of personal liability so that directors do not have to take it into account when deciding whether or not a company whose business has been impacted by the effects of the pandemic should continue trading, preventing companies from entering insolvency proceedings unnecessarily.

The instrument effectively revives the previous suspension between 1 March and 30 September under the CIG Act.

One of the requirements for using the section 20 power is that the change made is kept under review and removed if no longer needed. Therefore, if the suspension is no longer required to achieve the stated purpose before 30 April 2021, it will be removed.

Certain bodies, such as financial institutions, are excluded from this provision, as they were from the previous suspension in the CIG Act.

Paragraph 3 of Schedule 14 to the CIG Act allowed companies (and other qualifying bodies) to temporarily hold AGMs and other meetings in a manner which was consistent with both public health measures and their constitutional requirements, for example by electronic means. Those temporary relaxations were extended until 30 December 2020 in light of the continued need for public health measures in response to the pandemic, and this instrument now extends the easements to 30 March 2021.

Enquiries regarding this article may be sent to Policy.Unit@insolvency.gov.uk