



Corporate Insolvency and Governance Act 2020

2020 CHAPTER 12

Wrongful trading

12 Suspension of liability for wrongful trading: Great Britain

- (1) In determining for the purposes of section 214 or 246ZB of the Insolvency Act 1986 (liability of director for wrongful trading) the contribution (if any) to a company's assets that it is proper for a person to make, the court is to assume that the person is not responsible for any worsening of the financial position of the company or its creditors that occurs during the relevant period.
- (2) In this section the “relevant period” is the period which—
 - (a) begins with 1 March 2020, and
 - (b) ends with 30 September 2020.
- (3) Subsection (1) does not apply if at any time during the relevant period the company concerned is excluded from being eligible by any of the paragraphs of Schedule ZA1 to the Insolvency Act 1986 listed in subsection (4), as they apply for the purposes of this subsection (see subsection (5)).
- (4) The paragraphs of Schedule ZA1 to the Insolvency Act 1986 are—
 - (a) paragraph 3 (insurance companies),
 - (b) paragraph 4 (banks),
 - (c) paragraph 5 (electronic money institutions),
 - (d) paragraph 6 (investment banks and investment firms),
 - (e) paragraph 9 (payment institutions),
 - (f) paragraph 10 (operators of payment systems etc),
 - (g) paragraph 11 (recognised investment exchanges, clearing houses etc),
 - (h) paragraph 12 (securitisation companies),
 - (i) paragraph 13 (parties to capital market arrangements),
 - (j) paragraph 15 (public-private partnership project companies), and

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- (k) paragraph 18 (certain overseas companies).
- (5) In their application for the purposes of subsection (3)—
 - (a) each of paragraphs 13 and 15 of Schedule ZA1 to the Insolvency Act 1986 has effect as if in sub-paragraph (1)—
 - (i) the words “, on the filing date” were omitted, and
 - (ii) paragraph (b) were omitted, and
 - (b) paragraph 18 of that Schedule has effect as if for “paragraph 2”, in both places, there were substituted “ paragraphs 2, 7 and 8 ”.
- (6) Subsection (1) also does not apply if at any time during the relevant period the company concerned—
 - (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on a regulated activity, and
 - (b) is not subject to a requirement imposed under that Act to refrain from holding money for clients.
- (7) This section has effect—
 - (a) in so far as it relates to section 214 of the Insolvency Act 1986, as if it were contained in Part 4 of that Act, and
 - (b) in so far as it relates to section 246ZB of the Insolvency Act 1986, as if it were contained in Part 6 of that Act.
- (8) But this section does not have effect in relation to the following bodies (which are bodies to which provisions contained in Parts 4 and 6 of the Insolvency Act 1986 apply)—
 - (a) a society that is registered within the meaning of the Friendly Societies Act 1974 and that at any time during the relevant period carries on the regulated activity of effecting or carrying out contracts of insurance;
 - (b) a building society within the meaning of the Building Societies Act 1986;
 - (c) a society that is incorporated under the Friendly Societies Act 1992;
 - (d) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 that is registered under that Act as a credit union;
 - (e) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 that at any time during the relevant period carries on the regulated activity of effecting or carrying out contracts of insurance.
- (9) In this section “regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000, taken with Schedule 2 to that Act and any order under that section.

13 Suspension of liability for wrongful trading: Northern Ireland

- (1) In determining for the purposes of Article 178 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (liability of director for wrongful trading) the contribution (if any) to a company's assets that it is proper for a person to make, the High Court is to assume that the person is not responsible for any worsening of the financial position of the company or its creditors that occurs during the relevant period.
- (2) In this section the “relevant period” is the period which—
 - (a) begins with 1 March 2020, and
 - (b) ends with 30 September 2020.

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- (3) Subsection (1) does not apply if at any time during the relevant period the company concerned is excluded from being eligible by any of the paragraphs of Schedule ZA1 to the Insolvency (Northern Ireland) Order 1989 listed in subsection (4), as they apply for the purposes of this subsection (see subsection (5)).
- (4) The paragraphs of Schedule ZA1 to the Insolvency (Northern Ireland) Order 1989 are—
- (a) paragraph 3 (insurance companies),
 - (b) paragraph 4 (banks),
 - (c) paragraph 5 (electronic money institutions),
 - (d) paragraph 6 (investment banks and investment firms),
 - (e) paragraph 9 (payment institutions),
 - (f) paragraph 10 (operators of payment systems etc),
 - (g) paragraph 11 (recognised investment exchanges, clearing houses etc),
 - (h) paragraph 12 (securitisation companies),
 - (i) paragraph 13 (parties to capital market arrangements),
 - (j) paragraph 15 (public-private partnership project companies), and
 - (k) paragraph 18 (certain overseas companies).
- (5) In their application for the purposes of subsection (3)—
- (a) each of paragraphs 13 and 15 of Schedule ZA1 to the Insolvency (Northern Ireland) Order 1989 has effect as if in sub-paragraph (1)—
 - (i) the words “, on the filing date” were omitted, and
 - (ii) paragraph (b) were omitted, and
 - (b) paragraph 18 of that Schedule has effect as if for “paragraph 2”, in both places, there were substituted “ paragraphs 2, 7 and 8 ”.
- (6) Subsection (1) also does not apply if at any time during the relevant period the company concerned—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on a regulated activity, and
 - (b) is not subject to a requirement imposed under that Act to refrain from holding money for clients.
- (7) This section has effect as if it were contained in Part 5 of the Insolvency (Northern Ireland) Order 1989.
- (8) But this section does not have effect in relation to the following bodies (which are bodies to which provisions contained in Part 5 of the Insolvency (Northern Ireland) Order 1989 apply)—
- (a) a registered society within the meaning of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)) that at any time during the relevant period carries on the regulated activity of effecting or carrying out contracts of insurance;
 - (b) a society that is registered within the meaning of the Friendly Societies Act 1974 and that at any time during the relevant period carries on the regulated activity of effecting or carrying out contracts of insurance;
 - (c) a building society within the meaning of the Building Societies Act 1986;
 - (d) a credit union within the meaning of the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12));

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- (e) a society that is incorporated under the Friendly Societies Act 1992.
- (9) In this section “regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000, taken with Schedule 2 to that Act and any order under that section.

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