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CASH IS KING: COLLECTION OF OUTSTANDING INVOICES DURING COVID-19

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'Cash is king' is a phrase frequently used indicating that cash is often a more valuable asset than book debts or historic invoices. It certainly can be key to many companies' solvency. Unfortunately, with Covid-19 restrictions in place, many businesses are reporting a drag on their invoice payments and their debtor days are increasing. The manufacturing industry has undoubtedly been impacted in this regard, with issues high up in supply chains creating a ripple effect further down in the chain.

Although insolvency proceedings, including use of Statutory Demands, are sometimes frowned upon by the Courts as a debt collection method, Statutory Demands are undeniably a highly effective tool for collecting undisputed liquidated debts (i.e. fixed amounts).

Ordinarily, a Statutory Demand complying with the Insolvency Rules can be served on a debtor of an undisputed liquidated debt (of £750 or more when against a limited company) stating that unless the debt is paid within 21 days, a Winding-up Petition will be presented at Court. The issuing of a Winding-up Petition has an immediate effect on a limited company and their bank accounts are likely to be frozen.

However, in light of Covid-19, in the last year the Government introduced restrictions on Statutory Demands being presented against limited companies. Any Statutory Demand presented against a limited company up to 30th September 2021 will be ineffective, and a Winding-up Petition cannot be based on such a demand. It is unclear currently whether this will be extended beyond the current date of 30th September 2021.

It is still possible to threaten a company with the issuing of a Winding-up Petition on an undisputed liquidated debt of over £750 on the basis that the company is unable to pay its debts as they fall due to the satisfaction of the Court. Usually the creditor would rely on a Statutory Demand which has been unsatisfied for three weeks as evidence of this, but it is possible to rely on other evidence in this regard.

Further, under the current Covid-19 regulations, a creditor has to prove to the Court's satisfaction that the debt hasn't arisen as a result of Covid-19 or the debtor's inability to pay isn't related to Covid-19.

As Statutory Demands are so effective as a debt collection tool, there will be many waiting to see whether on 1st October 2021 they can revert back to issuing Statutory Demands to assist in the collection of outstanding invoices. If the deadline is extended past the end of June, then it may be preferable to issue a letter of claim with a view to issuing court proceedings.

It should be noted that the current restrictions relating to issuing Statutory Demands against limited companies don't apply to individuals (if you are looking to issue a Bankruptcy Petition based on that Statutory Demand).



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