

Getting Debts Paid During COVID-19

The Federal Government's *Coronavirus Economic Response Package Omnibus Act 2020* amends *Sections 588G (1) and (2) of the Corporations Act 2001* in response to the crisis. Effective 24 March 2020, it could affect your bottom line. Our Members answer all your most frequent questions.



Key Impacts on Debtors & Creditors

- Insolvent trading rules have been relaxed for six months from 24th March 2020.
- The minimum debt amount required to issue a Bankruptcy Notice or liquidation proceedings (such as making a **Creditor's Statutory Demand**) has been raised to \$20,000.
- The time allowed to respond to a Bankruptcy Notice or **Creditor's Statutory Demand** has been increased from 21 days to 6 months.

Key Questions Business Owners Ask

What is a Creditor's Statutory Demand (CSD)?

A CSD is a legal document issued against a company owing a debt. If the company fails to comply with the Demand, it will be committing an act of insolvency and a creditor can apply to the court to have a liquidator appointed. The ATO uses CSD's regularly.

When can I issue a CSD?

If you are owed \$20,000 or more and the debt is undisputed and owed to you by a company (not an individual) you can issue a CSD. The CSD must be issued

using the correct form (Form 509H). Be aware it is a technical document and errors are often fatal to a claim.

How do I issue a CSD?

The issuing of the Demand is complex and critical. Its this aspect that's most likely to go wrong so its best to **get a solicitor** to issue it for you. The costs vary between \$500 and \$1,000 for straight forward situations.

What are the new rules for issuing a CSD?

The *Coronavirus Economic Response Package Omnibus Act 2020* has introduced a temporary change until the 25th September 2020. The debt owed must now be more than \$20,000 and the debtor company has 6 months to comply.

Can I send a CSD today?

Yes, providing it meets the duration and minimum debt amount outlined above. This means your demand will now give the debtor 6 months to pay. Prior to the change the debtor would have had to pay the debt within 21 days.

If I haven't yet issued a CSD does it matter that some of the debt was incurred before 24th March and some after 24th March?

No, as long as the debt is past its due date. But note the answer below.

Can I issue a CSD for debts incurred before 24th March and ask the debtor to pay within 21 days?

No. It's too late – all CSD's issued now must give the debtor 6 months to pay.

Will a CSD issued before 24th March giving the debtor 21 days still be valid?

Yes. It will be considered an expired Creditor's Statutory Demand and you can file an application to have the company wound up on the grounds of insolvency if you wish.

If I issue a CSD in August, can I reduce the time the debtor must pay by to 2 months (for example)?

No. The period you must give the debtor to pay is 6 months. It might be better to consider delaying issuing a CSD in August or September, but [get legal advice](#) as the time approaches.

How is a Letter of Demand different from a CSD?

A Letter of demand is a not a 'formal' process, so you don't have to go court. They are letters you write to someone when they haven't paid their bill. You can set your own timeframe. You can provide one yourself or ask a lawyer to do one for you on their letterhead.

Are Letters of Demand impacted by Covid-19?

No. You can still issue Letters of Demand. And you can still bring court action, although there may be delays in hearings and enforcement (it varies from state to state and court to court).



Thanks to [Bruce Pasetti](#) for his valuable input to this document. Bruce is a Solicitor with over 20 years legal and specialist insolvency experience. He is Legal Practice Director at Stratos Legal and the 'go-to' for actions for wind-up, or to defend companies or directors against similar actions.

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