



K2 TURNAROUND TIMES

confronting business survival and related issues

Edited by Tony Groom

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K2 BUSINESS RESCUE LAUNCHES SURVIVAL GUIDE



K2 BUSINESS RESCUE ☺

A Practical Guide for Directors, Executives and Advisers

These are difficult times and at K2 Business Rescue we know that the key to saving a business is being realistic and knowing what can be done within the rules and regulations that directors are bound by.

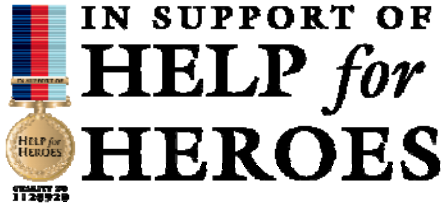
Our new reference guide called "**A Practical Guide for Directors, Executives and Advisers**" outlines the duties and responsibilities of directors, with specific emphasis on business survival, and lists those statutory obligations that are normally carried out by a company secretary on behalf of the directors. The Guide also includes notes on the relevant legislation that directors need to be aware of and comply with.

The Guide outlines the seven 'codified duties', as set out in the Companies Act 2006 that came into effect in 2008 and details the four primary tests to determine whether a company is actually insolvent, which can be the case even if they still have a strong balance sheet.

The Guide also covers other relevant aspects of the Insolvency Act 1986 and the Directors Disqualification Act 1986. Failure to comply with these can result in directors incurring civil and/ or criminal liability, leading to a fine, and/ or imprisonment and/ or disqualification for up to 15 years. The good news is that they can still trade while insolvent providing that in doing so it is in the best interests of the company's creditors, and our Guide is intended to help establish the company objectives and offers guidelines in the form of continuance principles if they do decide to trade while insolvent.

Directors can risk everything they have if they fail to seek advice when things get sticky. K2 Business Rescue will put the company's interests first and offer friendly, expert solutions based on 20 years of experience.

For your free copy of the Guide email to freeguides@rescue.co.uk, phone **01223 850 450** or download from our website www.rescue.co.uk.



K2 Partners is proud to support Help for Heroes as its chosen charity for 2010

K2 Partners is raising money in 2010 for Help for Heroes, a charity which was launched in October 2007 to support wounded Servicemen and Women.

An ex serviceman himself, CEO Tony Groom was injured while in the Army and has always been grateful to the experts at rehabilitation centre Headley Court in Surrey, who helped him to walk again after breaking both his legs. Help for Heroes is dedicated to raising £8m for a new Rehabilitation Complex at Headley Court, consisting of a superb swimming pool, two gyms and a research centre.

Help for Heroes is also supporting a number of other projects designed to provide practical, direct support to those wounded in active service on behalf of our country since 9/11, including creating a series of regional Recovery Houses to be built across the UK to serve as the last stage of rehabilitation before a serviceman, or woman, returns to their unit or transits back into civilian life. Their current target for this is to raise £20 million by October 2010 and while the support has been amazing, there is still a way to go.

If you would like to donate to Help for Heroes, your contribution would be very gratefully received. Just log onto www.rescue.co.uk and click on the 'Help for Heroes' link which will take you on to their website. Please quote the K2 reference number **20100107-0949-1139** if you can, and if you donate using the online option, you can put it in the 'personal message' box so that the charity know that your donation comes via k2.

The Insolvency Service releases statistics on Insolvencies during the fourth quarter of 2009

- There were 4,566 compulsory liquidations and creditors' voluntary liquidations in total in England and Wales on a seasonally adjusted basis).
- This was a decrease of 1.7% on the previous quarter and a decrease of 1.1% on the same period a year ago.
- Approximately 1 in 114 active companies (or 0.9%) went into liquidation which is approximately the same as the previous quarter.
- Additionally, there were 1,465 other corporate insolvencies (not seasonally adjusted). In total these represented a decrease of 39.7% on the same period a year ago.
- There were 19,077 compulsory liquidations and creditors' voluntary liquidations **in total** in 2009, an increase of 22.8% on 2008.

HMRC's "time to pay" arrangements may be coming home to roost

HMRC's "time to pay" arrangements have in many instances been used to avoid confronting reality. While 300,000 businesses may have agreed £5 billion of 'time to pay' arrangement with HMRC, many have not addressed the real issues that are putting their survival in jeopardy.

Avoiding or deferring payments to HMRC is proving to be a poisoned chalice for those businesses that fail to take steps so that they can pay ongoing tax obligations as well as the accrued ones under a time to pay arrangement. The short-term cash flow benefit comes home to roost when the arrangement kicks in. In the same way that Company Voluntary Arrangements all too often fail, time to pay arrangements are now starting to fail where the business involved has not undergone some

fundamental restructuring. Had the recession been short lived with growth returning rapidly then it is possible that more businesses would pull through; however it is generally accepted that more businesses go bust after the recession than during it. The reason for post-recession failures is generally attributed to a shortage of working capital. Time to pay arrangements are contributing to the shortage and highlight the failure to confront reality early enough.

It seems that if a business is willing to work with HMRC and be open and honest about the true state of its finances, then it is more likely that they will be prepared to work with them, by agreeing to a limited deferred payment scheme or by working alongside a business advisor in order to help the business to survive.

However, it also appears that HMRC is becoming tougher on those businesses who haven't kept to their original payment plans, or who look as if they are going to need deferred payment past a 3 or 6 month period. If they judge that a business is not viable in the long term and will later fail anyway, they are more likely to take the commercial decision to withdraw support earlier rather than let it continue to go into arrears.

The message seems to be that communication with HMRC is vital - enter into a dialogue and they are more likely to be willing to work with you and treat your business as an individual entity rather than taking the blanket 'close them down' approach.

You are not alone out there!

Running a company can be a lonely place for shareholders and directors. Saving businesses requires financial, legal, commercial and inter-personal skills which is why you should contact K2 Business Rescue. Let us deal with the pressure; provide the help needed, and share the load.

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Let us Help and Support You

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