



# Company Directors' Responsibilities to Creditors

*Andrew Keay*

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This timely work is the first to comprehensively examine directors' responsibilities to creditors in times of financial strife, as well as addressing when these responsibilities arise, and what directors should have to do to ensure that they comply with their obligations.

Keay explores the relevant issues from doctrinal, normative and comparative perspectives and addresses the question as to when directors are liable for wrongful trading, fraudulent trading or breach of their duties to creditors and whether directors should be held responsible for the before mentioned. Besides the relevant UK legislation and case law, legislation and case law from Australia, Canada, Ireland and the United States are examined and compared and reforms which take into account the aims and rationale of the relevant legislation as well as creditors' interests are proposed and assessed.

Importantly, new approaches for courts which would make the nature of the responsibility and its timing more precise are suggested.

Company directors have certain responsibilities to creditors of their companies. In particular, they should avoid fraudulent and wrongful trading and consider, as part of their duties, the interests of creditors when their companies might be, or are, in financial difficulty.

The work is precipitated by the lack of coherence in the consideration of wrongful trading and the recent delivery of important cases on fraudulent trading. Also, this timely work is the first to comprehensively examine directors' responsibilities to creditors in times of financial strife, as well as addressing when these responsibilities arise, and what directors should have to do to ensure that they comply with their obligations. Keay explores the relevant issues from doctrinal, normative and comparative perspectives and seeks to address the question as to when directors are liable for wrongful trading, fraudulent trading or breach of their duties to creditors and whether directors should be held responsible for wrongful trading and failing to consider the interests of creditors. Besides the relevant UK legislation and case law, legislation and case law from Australia, Canada, Ireland and the United States are examined and compared, and reforms which take into account the aims and rationale of the relevant legislation as well as creditors' interests are proposed and assessed. Importantly, new approaches for courts which would make the nature of the responsibility and its timing more precise are suggested.

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