



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART A1

MORATORIUM

[^{F1}CHAPTER 2

OBTAINING A MORATORIUM

Textual Amendments

- F1** Pt. A1 inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), **ss. 1(1)**, 49(1) (with **ss. 2(2)**, 5(2))

A3 Obtaining a moratorium by filing or lodging documents at court

- (1) This section applies to an eligible company that—
 - (a) is not subject to an outstanding winding-up petition, and
 - (b) is not an overseas company.
- (2) The directors of the company may obtain a moratorium for the company by filing the relevant documents with the court (for the relevant documents, see section A6).
- (3) For the purposes of this Chapter a company is “subject to an outstanding winding-up petition” if—
 - (a) a petition for the winding up of the company has been presented, and
 - (b) the petition has not been withdrawn or determined.

Modifications etc. (not altering text)

- C1** S. A3 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 4 para. 5** (with **ss. 2(2)**, 5(2), **Sch. 4 para. 1**)

Changes to legislation: Insolvency Act 1986, Chapter 2 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

C2 S. A3 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 6\(1\)\(a\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

A4 Obtaining a moratorium for company subject to winding-up petition

- (1) This section applies to an eligible company that is subject to an outstanding winding-up petition.
- (2) The directors of the company may apply to the court for a moratorium for the company.
- (3) The application must be accompanied by the relevant documents (for the relevant documents, see section A6).
- (4) On hearing the application the court may—
 - (a) make an order that the company should be subject to a moratorium, or
 - (b) make any other order which the court thinks appropriate.
- (5) The court may make an order under subsection (4)(a) only if it is satisfied that a moratorium for the company would achieve a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being subject to a moratorium).

Modifications etc. (not altering text)

- C3** S. A4 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 5](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))
- C4** S. A4 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 6\(2\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

A5 Obtaining a moratorium for other overseas companies

- (1) This section applies to an eligible company that—
 - (a) is not subject to an outstanding winding-up petition, and
 - (b) is an overseas company.
- (2) The directors of the company may apply to the court for a moratorium for the company.
- (3) The application must be accompanied by the relevant documents (for the relevant documents, see section A6).
- (4) On hearing the application the court may—
 - (a) make an order that the company should be subject to a moratorium, or
 - (b) make any other order which the court thinks appropriate.

Modifications etc. (not altering text)

- C5** S. A5 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 5](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

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A6 The relevant documents

- (1) For the purposes of this Chapter, “the relevant documents” are—
 - (a) a notice that the directors wish to obtain a moratorium,
 - (b) a statement from a qualified person (“the proposed monitor”) that the person—
 - (i) is a qualified person, and
 - (ii) consents to act as the monitor in relation to the proposed moratorium,
 - (c) a statement from the proposed monitor that the company is an eligible company,
 - (d) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its debts, and
 - (e) a statement from the proposed monitor that, in the proposed monitor’s view, it is likely that a moratorium for the company would result in the rescue of the company as a going concern.
- (2) Where it is proposed that more than one person should act as the monitor in relation to the proposed moratorium—
 - (a) each of them must make a statement under subsection (1)(b), (c) and (e), and
 - (b) the statement under subsection (1)(b) must specify—
 - (i) which functions (if any) are to be exercised by the persons acting jointly, and
 - (ii) which functions (if any) are to be exercised by any or all of the persons.
- (3) The rules may make provision about the date on which a statement comprised in the relevant documents must be made.
- (4) The Secretary of State may by regulations amend this section for the purposes of adding to the list of documents in subsection (1).
- (5) Regulations under subsection (4) are subject to the affirmative resolution procedure.

Modifications etc. (not altering text)

- C6** S. A6(1)(e) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 4 para. 6(1)(b)** (with ss. 2(2), 5(2), Sch. 4 para. 1)
- C7** S. A6(1)(e) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 4 para. 7(a)** (with ss. 2(2), 5(2), Sch. 4 para. 1)

A7 Beginning of moratorium and appointment of monitor

- (1) A moratorium for a company comes into force at the time at which—
 - (a) in the case of a company to which section A3 applies, the relevant documents are filed with the court under subsection (2) of that section;
 - (b) in the case of a company to which section A4 applies, an order is made under section A4(4)(a);
 - (c) in the case of a company to which section A5 applies, an order is made under section A5(4)(a).

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- (2) On the coming into force of a moratorium, the person or persons who made the statement mentioned in section A6(1)(b) become the monitor in relation to the moratorium.

A8 Obligations to notify where moratorium comes into force

- (1) As soon as reasonably practicable after a moratorium for a company comes into force, the directors must notify the monitor of that fact.
- (2) As soon as reasonably practicable after receiving a notice under subsection (1), the monitor must notify the following that a moratorium for the company has come into force—
- (a) the registrar of companies,
 - (b) every creditor of the company of whose claim the monitor is aware,
 - (c) in a case where the company is or has been an employer in respect of an occupational pension scheme that is not a money purchase scheme, the Pensions Regulator, and
 - (d) in a case where the company is an employer in respect of such a pension scheme that is an eligible scheme within the meaning given by section 126 of the Pensions Act 2004, the Board of the Pension Protection Fund.
- (3) A notice under subsection (2) must specify—
- (a) when the moratorium came into force, and
 - (b) when, subject to any alteration under or by virtue of any of the provisions mentioned in section A9(3) or (4), the moratorium will come to an end.
- (4) If the directors fail to comply with subsection (1), any director who did not have a reasonable excuse for the failure commits an offence.
- (5) If the monitor without reasonable excuse fails to comply with subsection (2), the monitor commits an offence.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by [S.I. 2017/1119 Sch. 3 para. 1](#)
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)