



# Insolvency Act 1986

## 1986 CHAPTER 45

### [<sup>F1</sup>PART A1

#### MORATORIUM

### [<sup>F1</sup>CHAPTER 3

#### LENGTH OF 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)**)

#### *Initial period*

#### **A9 End of the moratorium**

- (1) A moratorium ends at the end of the initial period unless it is extended, or comes to an end sooner, under or by virtue of a provision mentioned in subsection (3) or (4).
- (2) In this Chapter “the initial period”, in relation to a moratorium, means the period of 20 business days beginning with the business day after the day on which the moratorium comes into force.
- (3) For provision under or by virtue of which a moratorium is or may be extended, see—
  - section A10 (extension by directors without creditor consent);
  - section A11 (extension by directors with creditor consent);
  - section A13 (extension by court on application of directors);
  - section A14 (extension while proposal for CVA pending);
  - section A15 (extension by court in course of other proceedings).

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- (4) For provision under or by virtue of which the moratorium is or may be terminated, see—
- section A16 (termination on entry into insolvency procedure etc);
  - section A38 (termination by monitor);
  - section A42 or A44 (termination by court).
- (5) A moratorium may not be extended under a provision mentioned in subsection (3) once it has come to an end.
- (6) Where the application of two or more of the provisions mentioned in subsections (3) and (4) would produce a different length of moratorium, the provision that applies last is to prevail (irrespective of whether that results in a shorter or longer moratorium).

### *Extension of moratorium*

#### **A10 Extension by directors without creditor consent**

- (1) During the initial period, but after the first 15 business days of that period, the directors may extend the moratorium by filing with the court—
- (a) a notice that the directors wish to extend the moratorium,
  - (b) a statement from the directors that all of the following that have fallen due have been paid or otherwise discharged—
    - (i) moratorium debts, and
    - (ii) pre-moratorium debts for which the company does not have a payment holiday during the moratorium (see section A18),
  - (c) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its pre-moratorium debts, and
  - (d) a statement from the monitor that, in the monitor’s view, it is likely that the moratorium will result in the rescue of the company as a going concern.
- (2) The rules may make provision about the date on which a statement mentioned in subsection (1) must be made.
- (3) On the filing with the court of the documents mentioned in subsection (1), the moratorium is extended so that it ends at the end of the period—
- (a) beginning immediately after the initial period ends, and
  - (b) ending with the 20th business day after the initial period ends.

#### **Modifications etc. (not altering text)**

- C1** S. A10(1)(d) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 8\(2\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

#### **A11 Extension by directors with creditor consent**

- (1) At any time after the first 15 business days of the initial period the directors may, if they have obtained creditor consent, extend the moratorium by filing with the court—
- (a) a notice that the directors wish to extend the moratorium,
  - (b) a statement from the directors that all of the following that have fallen due have been paid or otherwise discharged—

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- (i) moratorium debts, and
  - (ii) pre-moratorium debts for which the company does not have a payment holiday during the moratorium (see section A18),
  - (c) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its pre-moratorium debts,
  - (d) a statement from the monitor that, in the monitor’s view, it is likely that the moratorium will result in the rescue of the company as a going concern, and
  - (e) a statement from the directors that creditor consent has been obtained, and of the revised end date for which that consent was obtained.
- (2) The rules may make provision about the date on which a statement mentioned in subsection (1) must be made.
- (3) On the filing with the court of the documents mentioned in subsection (1), the moratorium is extended so that it ends with the revised end date mentioned in the statement under subsection (1)(e).
- (4) A moratorium may be extended under this section more than once.

**Modifications etc. (not altering text)**

- C2** S. A11(1)(d) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 8\(2\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

**A12 Creditor consent for the purposes of section A11**

- (1) References in section A11 to creditor consent are to the consent of pre-moratorium creditors to a revised end date for the moratorium.
- (2) The decision as to consent is to be made using a qualifying decision procedure.
- (3) The revised end date must be a date before the end of the period of one year beginning with the first day of the initial period.
- (4) In this section “pre-moratorium creditor” means a creditor in respect of a pre-moratorium debt—
- (a) for which the company has a payment holiday during the moratorium (see section A18), and
  - (b) which has not been paid or otherwise discharged.
- (5) In determining for the purposes of subsection (4) what counts as a pre-moratorium debt for which the company has a payment holiday during the moratorium, sections A18(3) and A53(1)(b) apply as if the references to the moratorium were to the moratorium as proposed to be extended.
- (6) The Secretary of State may by regulations amend this section for the purposes of changing the definition of “pre-moratorium creditor”.
- (7) Regulations under subsection (6) are subject to the affirmative resolution procedure.

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### **A13 Extension by court on application of directors**

- (1) At any time after the first 15 business days of the initial period, the directors may apply to the court for an order that the moratorium be extended.
- (2) The application must be accompanied by—
  - (a) a statement from the directors that all of the following that have fallen due have been paid or otherwise discharged—
    - (i) moratorium debts, and
    - (ii) pre-moratorium debts for which the company does not have a payment holiday during the moratorium (see section A18),
  - (b) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its pre-moratorium debts,
  - (c) a statement from the directors as to whether pre-moratorium creditors (as defined by section A12(4) and (5)) have been consulted about the application and if not why not, and
  - (d) a statement from the monitor that, in the monitor’s view, it is likely that the moratorium will result in the rescue of the company as a going concern.
- (3) The rules may make provision about the date on which a statement mentioned in subsection (2) must be made.
- (4) On hearing the application the court may—
  - (a) make an order that the moratorium be extended to such date as is specified in the order, or
  - (b) make any other order which the court thinks appropriate.
- (5) In deciding whether to make an order under subsection (4)(a) the court must, in particular, consider the following—
  - (a) the interests of pre-moratorium creditors, as defined by section A12(4) and (5), and
  - (b) the likelihood that the extension of the moratorium will result in the rescue of the company as a going concern.
- (6) Subsection (7) applies where—
  - (a) an application under this section is made, and
  - (b) apart from that subsection, the moratorium would end at a time before the application has been disposed of.
- (7) The moratorium—
  - (a) does not end at the time mentioned in subsection (6)(b), and
  - (b) instead, ends—
    - (i) in a case in which the court makes an order under subsection (4)(a), in accordance with the order;
    - (ii) otherwise, when the application is withdrawn or disposed of.
- (8) A moratorium may be extended under this section more than once.

**Modifications etc. (not altering text)**

**C3** S. A13(2)(d) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 8\(3\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

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#### **A14 Extension while proposal for CVA pending**

- (1) Subsection (2) applies where—
  - (a) at any time, the directors make a proposal under Part 1 (company voluntary arrangements), and
  - (b) apart from that subsection, the moratorium would end at a time before the proposal is disposed of.
- (2) The moratorium—
  - (a) does not end at the time mentioned in subsection (1)(b), and
  - (b) instead, ends when the proposal is disposed of.
- (3) For the purposes of this section a proposal under Part 1 is “disposed of” when any of the following takes place—
  - (a) the company and its creditors both decide under section 4 not to approve the voluntary arrangement contained in the proposal;
  - (b) the decisions taken by the company and its creditors under section 4 differ, and—
    - (i) the period for making an application under section 4A(3) expires and either no application has been made within that period or any application made within that period has been withdrawn, or
    - (ii) an application is made under section 4A(3) and that application is disposed of, or it is withdrawn after the expiry of the period for making an application under section 4A(3);
  - (c) the voluntary arrangement contained in the proposal takes effect under section 5;
  - (d) the proposal is withdrawn.

#### **A15 Extension by court in the course of other proceedings**

- (1) Subsection (2) applies where—
  - (a) an application is made under section 896 or 901C(1) of the Companies Act 2006 (arrangements and reconstructions: court order for holding of meeting) in respect of a company, and
  - (b) during proceedings before a court in connection with the application, a moratorium for the company is in force.
- (2) The court may make an order that the moratorium be extended to such date as is specified in the order.

#### *Early termination on certain grounds*

#### **A16 Company enters into insolvency procedure etc**

- (1) A moratorium comes to an end at any time at which the company—
  - (a) enters into a compromise or arrangement (see subsection (2)), or
  - (b) enters into a relevant insolvency procedure (see subsection (3)).
- (2) For the purposes of this section a company enters into a compromise or arrangement if an order under section 899 or 901F of the Companies Act 2006 (court sanction for compromise or arrangement) comes into effect in relation to the company.

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- (3) For the purposes of this section a company enters into a relevant insolvency procedure if—
- (a) a voluntary arrangement takes effect under section 5 in relation to the company,
  - (b) the company enters administration (within the meaning of Schedule B1 (see paragraph 1(2)(b) of that Schedule)),
  - (c) paragraph 44 of Schedule B1 (administration: interim moratorium) begins to apply in relation to the company, or
  - (d) the company goes into liquidation (see section 247).

**Modifications etc. (not altering text)**

- C4** [S. A16](#) applied (with modifications) (E.W.) (15.3.2024) by [The Water Industry \(Special Administration\) Regulations 2024 \(S.I. 2024/205\)](#), regs. 2(2), **5(1)**, 42 (with reg. 64)

*Obligations to notify change in end of moratorium*

**A17 Obligations to notify change in end of moratorium**

- (1) The table imposes obligations on the directors of a company to notify the monitor where a moratorium for the company is extended or comes to an end.

|    | <i>Where a moratorium is extended or comes to an end under or by virtue of the following provision</i> | <i>the directors must</i>   |
|----|--|---|
| 1  | Section A10  | Notify the monitor of the extension.  |
| 2  | Section A11  | Notify the monitor of the extension and of the revised end date.  |
| 3  | Section A13(4)   | Notify the monitor of the extension and provide the monitor with the court order under section A13(4).                    |
| 4  | Section A13(7)(a)  | Notify the monitor of the extension.  |
| 5  | Section A13(7)(b)(ii)  | Notify the monitor that the moratorium has come to an end and of the date that it ended.                                  |
| 6  | Section A14(2)(a)  | Notify the monitor of the extension.  |
| 7  | Section A14(2)(b)  | Notify the monitor that the moratorium has come to an end and of the date that it ended.                                  |
| 8  | Section A15  | Notify the monitor of the extension and provide the monitor with any court order under section A15.                       |
| 9  | Section A16  | Notify the monitor that the moratorium has come to an end.  |
| 10 | Section A42  | Notify the monitor that the moratorium has come to an end and provide the monitor with the court order under section A42. |

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|    | <i>Where a moratorium is extended or comes to an end under or by virtue of the following provision</i> | <i>the directors must</i>   |
|----|--|---|
| 11 | Section A44  | Notify the monitor that the moratorium has come to an end and provide the monitor with the court order under section A44. |

- (2) After receiving a notice under subsection (1), other than a notice under entry 4 or 6 of the table, the monitor must notify the relevant persons of when the moratorium ended or, 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.
- (3) After receiving a notice under entry 4 or 6 of the table, the monitor must notify the relevant persons.
- (4) If a moratorium comes to an end under section A38 (termination by monitor), the monitor must notify the company and the relevant persons of when the moratorium ended.
- (5) The rules may—
  - (a) make further provision about the timing of a notice required to be given under this section;
  - (b) require a notice to be accompanied by other documents.
- (6) If the directors fail to comply with subsection (1), any director who did not have a reasonable excuse for the failure commits an offence.
- (7) If the monitor without reasonable excuse fails to comply with any of subsections (2) to (4), the monitor commits an offence.
- (8) In this section “the relevant persons” means—
  - (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.]

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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\(3\)\(b\)](#)