



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART A1

MORATORIUM

CHAPTER 4

EFFECTS OF MORATORIUM

[^{F1}Effect on creditors etc

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\(2\)](#))

A20 Restrictions on insolvency proceedings etc

- (1) During a moratorium—
- (a) no petition may be presented for the winding up of the company, except by the directors,
 - (b) no resolution may be passed for the voluntary winding up of the company under section 84(1)(a),
 - (c) a resolution for the voluntary winding up of the company under section 84(1)(b) may be passed only if the resolution is recommended by the directors,
 - (d) no order may be made for the winding up of the company, except on a petition by the directors,
 - (e) no administration application may be made in respect of the company, except by the directors,
 - (f) no notice of intention to appoint an administrator of the company under paragraph 14 or 22(1) of Schedule B1 may be filed with the court,

Changes to legislation: *Insolvency Act 1986, Cross Heading: Effect on creditors etc is up to date with all changes known to be in force on or before 16 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*

- (g) no administrator of the company may be appointed under paragraph 14 or 22(1) of Schedule B1, and
 - (h) no administrative receiver of the company may be appointed.
- (2) Subsection (1)(a) does not apply to an excepted petition; and subsection (1)(d) does not apply to an order on an excepted petition.
- (3) For these purposes, “excepted petition” means a petition under—
- (a) section 124A, 124B or 124C, or
 - (b) section 367 of the Financial Services and Markets Act 2000 on the ground mentioned in subsection (3)(b) of that section.

A21 Restrictions on enforcement and legal proceedings

- (1) During a moratorium—
- (a) a landlord or other person to whom rent is payable may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the company, except with the permission of the court,
 - (b) in Scotland, a landlord or other person to whom rent is payable may not exercise a right of irritancy in relation to premises let to the company, except with the permission of the court,
 - (c) no steps may be taken to enforce any security over the company’s property except—
 - (i) steps to enforce a collateral security charge (within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979)),
 - (ii) steps to enforce security created or otherwise arising under a financial collateral arrangement (within the meaning of regulation 3 of the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003/3226)), or
 - (iii) steps taken with the permission of the court,
 - (d) no steps may be taken to repossess goods in the company’s possession under any hire-purchase agreement, except with the permission of the court, and
 - (e) no legal process (including legal proceedings, execution, distress or diligence) may be instituted, carried out or continued against the company or its property except—
 - (i) employment tribunal proceedings or any legal process arising out of such proceedings,
 - (ii) proceedings, not within sub-paragraph (i), involving a claim between an employer and a worker, or
 - (iii) a legal process instituted, carried out or continued with the permission of the court.
- (2) An application may not be made for permission under subsection (1) for the purposes of enforcing a pre-moratorium debt for which the company has a payment holiday during the moratorium.
- (3) An application may not be made for permission under subsection (1)(c), (d) or (e) with a view to obtaining—
- (a) the crystallisation of a floating charge, or

Changes to legislation: *Insolvency Act 1986, Cross Heading: Effect on creditors etc is up to date with all changes known to be in force on or before 16 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*

- (b) the imposition, by virtue of provision in an instrument creating a floating charge, of any restriction on the disposal of any property of the company.
- (4) Permission of the court under subsection (1) may be given subject to conditions.
- (5) Subsection (1)(c)(iii) is subject to section A23(1).
- (6) In this section—
 - “agency worker” has the meaning given by section 13(2) of the Employment Relations Act 1999;
 - “employer”—
 - (a) in relation to an agency worker, has the meaning given by section 13(2) of the Employment Relations Act 1999;
 - (b) otherwise, has the meaning given by section 230(4) of the Employment Rights Act 1996;
 - “worker” means an individual who is—
 - (a) a worker within the meaning of section 230(3) of the Employment Rights Act 1996, or
 - (b) an agency worker.

Modifications etc. (not altering text)

- C1** A21 excluded by [S.I. 2015/912](#), [reg. 37\(12A\)\(c\)](#) (as inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 3 para. 55\(4\)](#) (with ss. 2(2), 5(2)))

A22 Floating charges

- (1) This section applies where there is an uncrystallised floating charge on the property of a company for which a moratorium is in force.
- (2) During the moratorium, the holder of the floating charge may not give any notice which would have the effect of—
 - (a) causing the floating charge to crystallise, or
 - (b) causing the imposition, by virtue of provision in the instrument creating the charge, of any restriction on the disposal of property of the company.
- (3) No other event occurring during the moratorium is to have the effect mentioned in subsection (2)(a) or (b).
- (4) Subsection (5) applies where—
 - (a) the holder of a floating charge (“the chargee”) is prevented by subsection (2) from giving a notice mentioned there during the moratorium, and
 - (b) under the terms of the floating charge, the time for giving such a notice ends during the moratorium or before the chargee is given notice of the end of the moratorium under section A17.
- (5) The chargee may give notice later than is required under the terms of the floating charge, but only if the chargee does so as soon as is practicable after—
 - (a) the end of the moratorium, or
 - (b) if later, the day on which the chargee is notified of the end of the moratorium.
- (6) Where—

Changes to legislation: *Insolvency Act 1986, Cross Heading: Effect on creditors etc is up to date with all changes known to be in force on or before 16 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*

- (a) subsection (3) prevents an event which occurs during the moratorium from having the effect mentioned there, and
 - (b) the holder of the floating charge gives notice of the event to the company as soon as is practicable after—
 - (i) the end of the moratorium, or
 - (ii) if later, the day on which the chargee is notified of the end of the moratorium,the event is to be treated as if it had occurred when the notice was given.
- (7) This section does not apply in relation to a floating charge that is—
- (a) a collateral security (as defined by section A27);
 - (b) a market charge (as defined by section A27);
 - (c) a security financial collateral arrangement (within the meaning of regulation 3 of the Financial Collateral Arrangements (No. 2) Regulations 2003 ([S.I. 2003/3226](#)));
 - (d) a system-charge (as defined by section A27).

A23 Enforcement of security granted during moratorium

- (1) Security granted by a company during a moratorium in relation to the company may be enforced only if the monitor consented to the grant of security under section A26.
- (2) See also section A21(1)(c), which restricts enforcement during a moratorium.]

Changes to legislation:

Insolvency Act 1986, Cross Heading: Effect on creditors etc is up to date with all changes known to be in force on or before 16 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.

[View outstanding changes](#)

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