



# Insolvency Act 1986

## 1986 CHAPTER 45

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

#### MORATORIUM

#### CHAPTER 4

#### EFFECTS OF MORATORIUM

#### *[<sup>F1</sup>Restrictions on transactions*

#### 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)**)

#### **A25 Restrictions on obtaining credit**

- (1) During a moratorium, the company may not obtain credit to the extent of £500 or more from a person unless the person has been informed that a moratorium is in force in relation to the company.
- (2) The reference to the company obtaining credit includes—
  - (a) the company entering into a conditional sale agreement in accordance with which goods are to be sold to the company,
  - (b) the company entering into any other form of hire-purchase agreement under which goods are to be bailed (in Scotland, hired) to the company, and
  - (c) the company being paid in advance (whether in money or otherwise) for the supply of goods or services.
- (3) If a company contravenes subsection (1)—
  - (a) the company commits an offence, and

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*Changes to legislation: Insolvency Act 1986, Cross Heading: Restrictions on transactions 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*

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- (b) any officer of the company who without reasonable excuse authorised or permitted the obtaining of the credit commits an offence.

#### **A26 Restrictions on grant of security etc**

- (1) During a moratorium, the company may grant security over its property only if the monitor consents.
- (2) The monitor may give consent under subsection (1) only if the monitor thinks that the grant of security will support the rescue of the company as a going concern.
- (3) In deciding whether to give consent under subsection (1), the monitor is entitled to rely on information provided by the company unless the monitor has reason to doubt its accuracy.
- (4) If the company grants security over its property during the moratorium otherwise than as authorised by subsection (1)—
  - (a) the company commits an offence, and
  - (b) any officer of the company who without reasonable excuse authorised or permitted the grant of the security commits an offence.
- (5) For the consequences of a company granting security over its property in contravention of subsection (1), see also section A23.
- (6) The monitor may not give consent under this section if the granting of security is an offence under section A27.

#### **A27 Prohibition on entering into market contracts etc**

- (1) If a company enters into a transaction to which this section applies during a moratorium for the company—
  - (a) the company commits an offence, and
  - (b) any officer of the company who without reasonable excuse authorised or permitted the company to enter into the transaction commits an offence.
- (2) A company enters into a transaction to which this section applies if it—
  - (a) enters into a market contract,
  - (b) enters into a financial collateral arrangement,
  - (c) gives a transfer order,
  - (d) grants a market charge or a system-charge, or
  - (e) provides any collateral security.
- (3) Where during the moratorium a company enters into a transaction to which this section applies, nothing done by or in pursuance of the transaction is to be treated as done in contravention of any of sections A19, A21, A25, A26 and A28 to A32.
- (4) In this section—
  - “collateral security” has the same meaning as in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979);
  - “financial collateral arrangement” has the same meaning as in the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003/3226);
  - “market charge” has the same meaning as in Part 7 of the Companies Act 1989;

**Changes to legislation:** *Insolvency Act 1986, Cross Heading: Restrictions on transactions 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](#)*

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“market contract” has the same meaning as in Part 7 of the Companies Act 1989;

“system-charge” has the meaning given by the Financial Markets and Insolvency Regulations 1996 (S.I. 1996/1469);

“transfer order” has the same meaning as in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.]

**Changes to legislation:**

Insolvency Act 1986, Cross Heading: Restrictions on transactions 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.

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