



# Insolvency Act 1986

## 1986 CHAPTER 45

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

#### MORATORIUM

### CHAPTER 8

#### MISCELLANEOUS AND GENERAL

#### *[<sup>F1</sup>Interpretation of this Part*

#### 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\(2\)](#))

#### **A53** Meaning of “pre-moratorium debt” and “moratorium debt”

- (1) In this Part “pre-moratorium debt”, in relation to a company for which a moratorium is or has been in force, means—
- (a) any debt or other liability to which the company becomes subject before the moratorium comes into force, or
  - (b) any debt or other liability to which the company has become or may become subject during the moratorium by reason of any obligation incurred before the moratorium comes into force,
- but this is subject to subsection (3).
- (2) In this Part “moratorium debt”, in relation to a company for which a moratorium is or has been in force, means—

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**Changes to legislation:** *Insolvency Act 1986, Cross Heading: Interpretation of this Part is up to date with all changes known to be in force on or before 13 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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- (a) any debt or other liability to which the company becomes subject during the moratorium, other than by reason of an obligation incurred before the moratorium came into force, or
- (b) any debt or other liability to which the company has become or may become subject after the end of the moratorium by reason of an obligation incurred during the moratorium,

but this is subject to subsection (3).

(3) For the purposes of this Part—

- (a) a liability in tort or delict is a “pre-moratorium debt” if either—
  - (i) the cause of action has accrued before the moratorium comes into force, or
  - (ii) all the elements necessary to establish the cause of action exist before the moratorium comes into force except for actionable damage;
- (b) a liability in tort or delict is a “moratorium debt” if it does not fall within paragraph (a) and either—
  - (i) the cause of action has accrued during the moratorium, or
  - (ii) all the elements necessary to establish the cause of action exist before the moratorium comes to an end except for actionable damage.

(4) The Secretary of State may by regulations amend this section for the purposes of changing the definition of “pre-moratorium debt” or “moratorium debt” in this Part.

(5) Regulations under subsection (4) are subject to the affirmative resolution procedure.

#### **A54 Interpretation of this Part: general**

(1) In this Part—

“company” means—

- (a) a company registered under the Companies Act 2006 in England and Wales or Scotland, or
- (b) an unregistered company that may be wound up under Part 5 of this Act;

“the court” means such court as is prescribed;

“eligible”, in relation to a company, has the meaning given by Schedule ZA1;

“employer”, in relation to a pension scheme—

- (a) in sections A8(2)(c), A17(8)(c) and A39(8)(c), means an employer within the meaning of section 318(1) of the Pensions Act 2004;
- (b) elsewhere in this Part, has the same meaning that it has for the purposes of Part 2 of the Pensions Act 2004 (see section 318(1) and (4) of that Act);

“enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act;

“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement;

“liability” means (subject to subsection (2)) a liability to pay money or money’s worth, including any liability under an enactment, a liability for breach of trust, any liability in contract, tort, delict or bailment, and any liability arising out of an obligation to make restitution;

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“money purchase scheme” has the meaning given by section 181(1) of the Pension Schemes Act 1993;

“the monitor”, in relation to a moratorium, means the person who has the functions of the monitor in relation to the moratorium (see also section A40 for cases where two or more persons act as the monitor);

“moratorium” means a moratorium under this Part;

“moratorium debt” has the meaning given by section A53;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;

“pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;

“pre-moratorium debt” has the meaning given by section A53;

“qualified person” means a person qualified to act as an insolvency practitioner;

“unable to pay its debts”—

(a) in relation to a registered company, has the same meaning as in Part 4 (see section 123);

(b) in relation to an unregistered company, has the same meaning as in Part 5 (see sections 222 to 224).

- (2) For the purposes of references in any provision of this Part to a debt or liability it is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.
- (3) In this Part references to filing a document with the court are, in relation to a court in Scotland, references to lodging it in court.
- (4) The Secretary of State may by regulations amend this section for the purposes of changing the definition of “qualified person” in subsection (1).
- (5) Regulations under subsection (4) are subject to the affirmative resolution procedure.]

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

- C1** S. A54(1) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), Sch. 4 paras. 13, 53 (with ss. 2(2), 5(2), Sch. 4 para. 1)
- C2** S. A54(1) modified (30.9.2021) by [S.I. 2014/229](#), art. 2(2A), **Sch. A1 para. 1(3)** (as inserted by [The Co-operative and Community Benefit Societies \(Administration\) \(Amendment\) Order 2021 \(S.I. 2021/1048\)](#), arts. 1(1), 2)

**Changes to legislation:**

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