
Status: This version of this provision has been superseded.

Changes to legislation: *Insolvency Act 1986, Section 174A is up to date with all changes known to be in force on or before 19 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*



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER VIII

PROVISIONS OF GENERAL APPLICATION IN WINDING UP

[^{F1}Moratorium: order of priority of payment of debts

[^{F1}174A Moratorium debts etc: priority

- (1) This section applies where proceedings for the winding up of a company are begun before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part A1.
- (2) In the winding up, the following are payable out of the company's assets (in the order of priority shown) in preference to all other claims—
 - (a) any prescribed fees or expenses of the official receiver acting in any capacity in relation to the company;
 - (b) moratorium debts and priority pre-moratorium debts.
- (3) In subsection (2)(b) "priority pre-moratorium debt" means—
 - (a) any pre-moratorium debt that is payable in respect of—
 - (i) the monitor's remuneration or expenses,
 - (ii) goods or services supplied during the moratorium,
 - (iii) rent in respect of a period during the moratorium, or
 - (iv) wages or salary arising under a contract of employment, so far as relating to a period of employment before or during the moratorium,
 - (b) any pre-moratorium debt that—
 - (i) consists of a liability to make a redundancy payment, and

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- (ii) fell due before or during the moratorium, and
- (c) any pre-moratorium debt that—
 - (i) arises under a contract or other instrument involving financial services,
 - (ii) fell due before or during the moratorium, and
 - (iii) is not relevant accelerated debt (see subsection (4)).
- (4) For the purposes of subsection (3)(c)—
 - “relevant accelerated debt” means any pre-moratorium debt that fell due during the relevant period by reason of the operation of, or the exercise of rights under, an acceleration or early termination clause in a contract or other instrument involving financial services;
 - “the relevant period” means the period—
 - (a) beginning with the day on which the statement under section A6(1)(e) is made, and
 - (b) ending with the last day of the moratorium.
- (5) The rules may make provision as to the order in which the debts mentioned in subsection (2)(b) rank among themselves in a case where the assets of the company are insufficient to meet them in full.
- (6) The Secretary of State may by regulations made by statutory instrument amend this section for the purposes of changing the definition of “moratorium debt” or “priority pre-moratorium debt” in this section.
- (7) Regulations under subsection (6) may make consequential, supplementary, incidental or transitional provision or savings.
- (8) A statutory instrument containing regulations under subsection (6) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (9) For the purposes of this section proceedings for the winding up of a company are begun when—
 - (a) a winding-up petition is presented, or
 - (b) a resolution for voluntary winding up is passed.
- (10) Any rules made under section A18(4) (meaning of supply of goods or services) apply also for the purposes of subsection (3)(a)(ii) of this section.
- (11) In this section—
 - “acceleration or early termination clause”, in relation to a contract or other instrument involving financial services, means a provision of the contract or other instrument—
 - (a) under which, on the happening of an event—
 - (i) a debt or other liability falls due earlier than it otherwise would, or
 - (ii) a debt or other liability is terminated and replaced by another debt or liability, or
 - (b) which confers on a party a right which, if exercised, will result in —
 - (i) a debt or other liability falling due earlier than it otherwise would, or

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(ii) a debt or other liability being terminated and replaced by another debt or liability;

“contract or other instrument involving financial services” has the same meaning as it has for the purposes of section A18 (see Schedule ZA2);

“monitor’s remuneration or expenses” has the meaning given by section A18;

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

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

“redundancy payment” has the meaning given by section A18;

“wages or salary” has the meaning given by section A18.]

Textual Amendments

F1 S. 174A and cross-heading inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), s. 49(1), [Sch. 3 para. 13](#) (with ss. 2(2), 5(2))

Status:

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