



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART A1

MORATORIUM

CHAPTER 6

CHALLENGES

[^{F1}A44 Challenge to directors' actions

- (1) A creditor or member of a company may apply to the court for an order under this section on the ground that—
 - (a) during a moratorium, the company's affairs, business and property are being or have been managed by the directors in a manner which has unfairly harmed the interests of its creditors or members generally or of some part of its creditors or members (including at least the applicant), or
 - (b) any actual or proposed act or omission of the directors during a moratorium causes or would cause such harm.
- (2) An application under subsection (1) may be made during the moratorium or after it has ended.
- (3) On an application under subsection (1) the court may make such order as it thinks fit.
- (4) An order under subsection (3) may in particular—
 - (a) regulate the management by the directors of the company's affairs, business and property during the remainder of the moratorium,
 - (b) require the directors to refrain from doing or continuing an act complained of by the applicant or to do an act which the applicant has complained they have omitted to do,
 - (c) require a decision of the company's creditors to be sought (using a qualifying decision procedure) on such matters as the court may direct, or

Changes to legislation: *Insolvency Act 1986, Section A44 is up to date with all changes known to be in force on or before 10 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*

- (d) bring the moratorium to an end and make such consequential provision as the court thinks fit.
- (5) In making an order under subsection (3) the court must have regard to the need to safeguard the interests of persons who have dealt with the company in good faith and for value.
- (6) See also section A17 (obligations to notify change in end 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\(2\)](#))

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