

Changes to legislation: There are currently no known outstanding effects for the Corporate Insolvency and Governance Act 2020, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 3

MORATORIUMS IN GREAT BRITAIN: TEMPORARY PROVISION

Modifications etc. (not altering text)

- C1** Sch. 4 applied (with modifications) (26.6.2020) by [The Limited Liability Partnerships \(Amendment etc.\) Regulations 2020 \(S.I. 2020/643\)](#), regs. 1(1), **5**
- C2** Sch. 4 applied (with modifications) (E.W.S.) by S.I. 2014/229, **arts. 2(5), 11(6), Sch. 4 Pt. 4** (as inserted (18.7.2020) by [The Co-operative and Community Benefit Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) \(Amendment\) and Consequential Amendments Order 2020 \(S.I. 2020/744\)](#), arts. 1, **7(e), 10, 13(g)**)
- C3** Sch. 4 applied (with modifications) (16.2.2021) by [The Limited Liability Partnerships \(Amendment etc.\) Regulations 2021 \(S.I. 2021/60\)](#), regs. 1(1), **6**

PART 1

“RELEVANT PERIOD” AND POWERS TO TURN OFF TEMPORARY PROVISION

Modifications etc. (not altering text)

- C4** Sch. 4 Pts. 1-3 applied in part (with modifications) (E.W.) by S.I. 2012/3013, **Sch. 1 para. 1** (as modified (7.7.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) Regulations 2020 \(S.I. 2020/710\)](#), regs. 1, **5** (with reg. 6)); [Editorial note: The affecting legislation is revoked and this amendment is reversed (13.8.2020) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(2), **2**]
- C5** Sch. 4 Pts. 1-3 applied in part (with modifications) (E.W.) by S.I. 2012/3013, **Sch. 1 para. 1** (as modified (13.8.2020 immediately after the coming into force of S.I. 2020/856, reg. 2) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/856\)](#), regs. 1(3), **6** (with reg. 7))

“Relevant period”

- 1 In this Schedule “relevant period” means the period which—
- (a) begins with the day on which this Schedule comes into force, and
 - (b) ends with [^{F1}30 September 2021].

Textual Amendments

- F1** Words in Sch. 4 para. 1(b) substituted (26.3.2021) by [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Extension of the Relevant Period\) Regulations 2021 \(S.I. 2021/375\)](#), regs. 1, **3(3)**

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Power to turn off particular provisions of Part 2 of this Schedule early

- 2 (1) The Secretary of State may by regulations made by statutory instrument provide for any provision made by Part 2 of this Schedule to cease to have effect before the end of the relevant period.
- (2) The regulations may include transitional provision or savings.
- (3) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

Power to turn off provisions of Parts 3 and 4 of this Schedule early etc

- 3 Rules under section 411 of the Insolvency Act 1986 may provide for any provision made by paragraphs 13 to 51 or 53 to 90 to cease to have effect before the end of the relevant period.
- 4 Rules under section 411 of the Insolvency Act 1986 may make transitional provision or savings in connection with any provision made by paragraphs 13 to 51 or 53 to 90 ceasing to have effect (whether by virtue of paragraph 3 or 12).

PART 2

MODIFICATIONS TO PRIMARY LEGISLATION

“Eligible” company: additional exclusion

- [^{F2}5 During the relevant period, a company is not eligible for the purposes of section A3, A4 or A5 of the Insolvency Act 1986 if the company—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on a regulated activity within the meaning of that Act, and
 - (b) is not subject to a requirement imposed under that Act to refrain from holding money for clients.]

Textual Amendments

- F2** Sch. 4 para. 5 ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

Relaxation of conditions for obtaining moratorium etc

- 6 (1) For the purposes of obtaining a moratorium under section A3 of the Insolvency Act 1986 during the relevant period—
- (a) section A3 of that Act has effect as if subsection (1)(a) were omitted;
 - [^{F3}(b) section A6(1)(e) of that Act has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”];
 - (c) Schedule ZA1 to that Act has effect as if paragraph 2(1)(b) and (2)(b) were omitted.

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- (2) During the relevant period, only an overseas company may obtain a moratorium under section A4 of the Insolvency Act 1986.

Textual Amendments

- F3** Sch. 4 para. 6(1)(b) ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

- 7 In relation to an application for a moratorium made under section A4 or A5 of the Insolvency Act 1986 during the relevant period—
- [^{F4}(a) section A6(1)(e) of that Act has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”];
- (b) Schedule ZA1 to that Act has effect as if paragraph 2(1)(b) and (2)(b) were omitted.

Textual Amendments

- F4** Sch. 4 para. 7(a) ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

Relaxation of conditions for extending moratorium obtained during relevant period

- [^{F5}8 (1) This paragraph applies in relation to a moratorium that comes into force during the relevant period.
- (2) For the purposes of extending the moratorium under section A10 or A11 of the Insolvency Act 1986, subsection (1)(d) of that section has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”.
- (3) In relation to an application under section A13 of the Insolvency Act 1986 that the moratorium be extended, subsection (2)(d) of that section has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”.]

Textual Amendments

- F5** Sch. 4 para. 8 ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

Monitoring of moratorium obtained during relevant period

- [^{F6}9 In relation to a moratorium that comes into force during the relevant period, section A35(1) of the Insolvency Act 1986 has effect as if for the words from “it remains likely” to the end there were substituted

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- (a) it is likely that the moratorium will result in the rescue of the company as a going concern, or
- (b) that, if one were to disregard any worsening of the financial position of the company for reasons relating to coronavirus, it is likely that the moratorium would result in the rescue of the company as a going concern.”]

Textual Amendments

- F6** Sch. 4 para. 9 ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

Termination of moratorium obtained during relevant period

- [^{F7}10 In relation to a moratorium that comes into force during the relevant period, section A38(1) of the Insolvency Act 1986 has effect as if for paragraph (a) there were substituted—
- “(a) the monitor thinks—
 - (i) that the moratorium is not likely to result in the rescue of the company as a going concern, and
 - (ii) that, even if one were to disregard any worsening of the financial position of the company for reasons relating to coronavirus, the moratorium would not be likely to result in the rescue of the company as a going concern,”.]

Textual Amendments

- F7** Sch. 4 para. 10 ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

“Coronavirus”

- [^{F8}11 In the modifications made by this Part of this Schedule “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).]

Textual Amendments

- F8** Sch. 4 para. 11 ceases to have effect (1.10.2020) by virtue of [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Early Termination of Certain Temporary Provisions\) Regulations 2020 \(S.I. 2020/1033\)](#), regs. 1, 2 (with reg. 3)

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PART 3

TEMPORARY RULES: ENGLAND AND WALES

Introductory

- 12 Paragraphs 13 to 51 cease to have effect at the end of the relevant period, subject to paragraph 3.

Definition of “the court”

- 13 Section A54(1) of the Insolvency Act 1986 has effect as if for the definition of “the court” there were substituted—
- ““the court”, in relation to a company, means a court having jurisdiction to wind up the company;”.

Content of documents relating to the obtaining or extending of a moratorium: general

- 14 A notice or statement under section A6(1), A8(2), A10(1), A11(1) or A13(2) of the Insolvency Act 1986 must state—
- (a) the provision under which it is given or made,
 - (b) the nature of the notice or statement,
 - (c) the date of the notice or statement, and
 - (d) the identification details for the company to which it relates.

Authentication of documents relating to obtaining or extending moratorium: general

- 15 (1) A notice or statement under section A6(1), A10(1), A11(1) or A13(2) of the Insolvency Act 1986 must be authenticated by or on behalf of the person giving the notice or making the statement.
- (2) A notice under section A8(2)(a) of the Insolvency Act 1986 must be authenticated by the monitor.
- (3) Rule 1.5 of the England and Wales Insolvency Rules applies for the purposes of authentication under this paragraph.

Notice that directors wish to obtain a moratorium

- 16 A notice under section A6(1)(a) of the Insolvency Act 1986 must state—
- (a) the company's address for service, and
 - (b) the court (and where applicable, the division or district registry of that court) or hearing centre in which the documents are to be filed under section A3 or the application under section A4 or A5 is to be made.

Proposed monitor's statement and consent to act

- 17 (1) A statement under section A6(1)(b) of the Insolvency Act 1986 must be headed “Proposed monitor's statement and consent to act” and must contain the following—
- (a) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,

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- (b) the proposed monitor's IP number,
- (c) the name of the relevant recognised professional body which is the source of the proposed monitor's authorisation to act in relation to the company, and
- (d) a statement that the proposed monitor consents to act as monitor in relation to the company.

(2) In this paragraph “IP number” means the number assigned to an office-holder as an insolvency practitioner by the Secretary of State.

Timing of statements for obtaining moratorium

18 Each statement under section A6(1)(b) to (e) of the Insolvency Act 1986 must be made within the period of 5 days ending with the day on which the documents under section A6(1)(a) to (e) are filed with the court (or, if the documents are filed on different days, the last of those days).

Notice by monitor where moratorium comes into force

19 A notice under section A8(2) of the Insolvency Act 1986 must—

- (a) state that it is given by the monitor acting in that capacity, and
- (b) state the name and contact details of the monitor.

Notice that directors wish to extend a moratorium

20 A notice under section A10(1)(a) or A11(1)(a) of the Insolvency Act 1986 must state—

- (a) the company's address for service, and
- (b) the court (and where applicable, the division or district registry of that court) or hearing centre in which the notice is to be filed.

Extension under section A10 or A11 of the Insolvency Act 1986: notices and statements

21 A statement by the monitor under section A10(1)(d) or A11(1)(d) of the Insolvency Act 1986 must contain contact details of the monitor.

Timing of statements for extension under section A10 or A11

22 Each statement under section A10(1)(b) to (d) or A11(1)(b) to (e) of the Insolvency Act 1986 must be made within the period of 3 days ending with the day on which the documents under section A10(1)(a) to (d) or A11(1)(a) to (e) are filed with the court (or, if the documents are filed on different days, the last of those days).

Obtaining creditor consent: qualifying decision procedure

23 (1) The following apply, so far as relevant, for the purposes of a decision to consent to a revised end date for a moratorium under section A12 of the Insolvency Act 1986—

- (a) Part 15 of the England and Wales Insolvency Rules (decision making), apart from rule 15.8(3)(f) and (g);
- (b) Part 16 of the England and Wales Insolvency Rules (proxies), apart from rule 16.7.

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- (2) In its application by virtue of sub-paragraph (1), Part 15 has effect subject to the modifications set out in paragraphs 24 to 28.
- 24 Rule 15.11 of the England and Wales Insolvency Rules (notice of decision procedures etc) has effect as if, before the first entry in the table, there were inserted—
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- | | |
|-------------|--|
| “moratorium | decision of pre- the pre-moratorium 5 days”. |
| | moratorium creditors |
| | creditors under |
| | section A12 of the |
| | Act |
-
- 25 Rule 15.28 of the England and Wales Insolvency Rules (creditors' voting rights) has effect as if, before paragraph (1), there were inserted—
- “(A1) A pre-moratorium creditor is entitled to vote in a decision procedure under section A12 of the Act only if—
- (a) the creditor has delivered to the convener a proof of the debt claimed in accordance with paragraph (3) including any calculation for the purposes of rule 15.31 or 15.32, and
 - (b) the proof was received by the convener—
 - (i) not later than the decision date, or in the case of a meeting, 4pm on the business day before the meeting, or
 - (ii) in the case of a meeting, later than the time given in sub-paragraph (i) where the chair is content to accept the proof, and
 - (c) the proof has been admitted for the purposes of entitlement to vote.”
- 26 Rule 15.31 of the England and Wales Insolvency Rules (calculation of voting rights) has effect as if—
- (a) before paragraph (1) there were inserted—

“(A1) In relation to a decision to consent to a revised end date for a moratorium under section A12 of the Act votes are calculated according to the amount of each creditor's claim at the decision date.”;
 - (b) after paragraph (2) there were inserted—

“(2A) But in relation to a decision to consent to a revised end date for a moratorium under section A12 of the Act, a debt of an unliquidated or unascertained amount is to be valued at £1 for the purposes of voting unless the convener or chair or an appointed person decides to put a higher value on it.”;
 - (c) in paragraph (6), after sub-paragraph (b) there were inserted—

“(c) where the decision relates to whether to consent to a revised end date for a moratorium under section A12 of the Act.”
- 27 Rule 15.32 of the England and Wales Insolvency Rules (calculation of voting rights: special cases) has effect as if, before paragraph (1), there were inserted—

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“(A1) In relation to a decision to consent to a revised end date for a moratorium under section A12 of the Act, a pre-moratorium creditor under a hire-purchase agreement is entitled to vote in respect of the amount of the debt due and payable by the company at the decision date.

(B1) In calculating the amount of any debt for the purpose of paragraph (A1), no account is to be taken of any amount attributable to the exercise of any right under the relevant agreement so far as the right has become exercisable solely by virtue of a moratorium for the company coming into force.”

28 Rule 15.34 of the England and Wales Insolvency Rules (requisite majorities) has effect as if, before paragraph (1), there were inserted—

“(A1) Subject to paragraph (B1), a decision to consent to a revised end date for a moratorium under section A12 of the Act is made if, of those voting—

- (a) a majority (in value) of the pre-moratorium creditors who are secured creditors vote in favour of the proposed decision, and
- (b) a majority (in value) of the pre-moratorium creditors who are unsecured creditors vote in favour of the proposed decision.

(B1) But a decision to consent to a revised end date for a moratorium under section A12 of the Act is not made if, of those voting either—

- (a) a majority of the pre-moratorium creditors who are unconnected secured creditors vote against the proposed end date, or
- (b) a majority of the pre-moratorium creditors who are unconnected unsecured creditors vote against the proposed end date.

(C1) For the purposes of paragraph (B1)—

- (a) a creditor is unconnected unless the convener or chair decides that the creditor is connected, and
- (b) the total value of the unconnected creditors is the total value of those unconnected creditors whose claims have been admitted for voting.”

Content of application to the court for extension of moratorium

29 (1) An application by the directors of a company for the extension of a moratorium under section A13 of the Insolvency Act 1986 must state—

- (a) that it is made under that section,
- (b) the length of the extension sought,
- (c) identification details for the company to which the application relates,
- (d) the company's address for service, and
- (e) the court (and where applicable, the division or district registry of that court) or hearing centre in which the application is made.

(2) The application must be authenticated by or on behalf of the directors.

(3) Rule 1.5 of the England and Wales Insolvency Rules applies for the purposes of authentication under sub-paragraph (2).

Timing of statements accompanying application to court for extension of moratorium

30 A statement under section A13(2) must be made within the period of 3 days ending with the day on which the application under that section is made.

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Notices about change in end of moratorium

- 31 (1) A notice under section A17(1) of the Insolvency Act 1986 must be given within the period of 5 days beginning with the day on which the duty to give the notice arises.
- (2) The notice must state—
- (a) the name of the company to which it relates, and
 - (b) the provision by virtue of which the moratorium was extended or came to an end.
- 32 (1) A notice under section A17(2) or (3) of the Insolvency Act 1986 must be given within the period of 5 days beginning with the day on which the duty to give the notice arises.
- (2) The notice must state—
- (a) the provision under which it is given,
 - (b) the nature of the notice,
 - (c) the date of the notice,
 - (d) that it is given by the monitor acting in that capacity,
 - (e) the name and contact details of the monitor, and
 - (f) the identification details for the company to which it relates.
- (3) A notice under section A17(2) or (3) of the Insolvency Act 1986 that is given to the registrar of companies must be authenticated by or on behalf of the monitor.
- (4) Rule 1.5 of the England and Wales Insolvency Rules applies for the purposes of authentication under sub-paragraph (3).
- 33 Where a moratorium comes to an end under section A16 of the Insolvency Act 1986 because the company has entered into a relevant insolvency procedure within the meaning of that section, the notices under section A17(1) and (2) must state—
- (a) the date on which the company entered into the relevant insolvency procedure, and
 - (b) the name and contact details of the supervisor of the voluntary arrangement, the administrator or the liquidator.
- 34 (1) A notice under section A17(4) of the Insolvency Act 1986 must be given within the period of 3 business days beginning with the day on which the notice under section A38(1) of that Act is filed with the court.
- (2) The notice under section A17(4) of that Act must be accompanied by the notice that the monitor has filed with the court under section A38(1) of that Act.

Notification by directors of insolvency proceedings etc

- 35 (1) A notice under section A24(1) of the Insolvency Act 1986 must be given before the period of 3 days ending with the day on which the step mentioned there is taken.
- (2) A notice under section A24(2) of the Insolvency Act 1986 must be given within the period of 3 days beginning with the day on which the duty to give the notice arises.

Notice of termination of moratorium

- 36 (1) A notice under section A38(1) of the Insolvency Act 1986 must be filed with the court as soon as practicable after the duty in that subsection arises.

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- (2) The notice must state—
- (a) the provision under which it is given,
 - (b) the nature of the notice,
 - (c) the date of the notice,
 - (d) the name and contact details of the monitor,
 - (e) the identification details for the company to which it relates,
 - (f) the grounds on which the moratorium is being terminated,
 - (g) the monitor's reasons for concluding that those grounds are made out,
 - (h) the date on which the monitor concluded that those grounds were made out, and
 - (i) the court (and where applicable, the division or district registry of that court) or hearing centre in which the notice is to be filed.
- (3) The notice must be authenticated by or on behalf of the monitor.
- (4) Rule 1.5 of the England and Wales Insolvency Rules applies for the purposes of authentication under sub-paragraph (3).

Termination of moratorium under section A38(1)(d) of the Insolvency Act 1986

- 37 For the purposes of deciding whether to bring a moratorium to an end under section A38(1)(d) of the Insolvency Act 1986 the monitor must disregard—
- (a) any debts that the monitor has reasonable grounds for thinking are likely to be paid within 5 days of the decision, and
 - (b) any debts in respect of which the creditor has agreed to defer payment until a time that is later than the decision.

Replacement of monitor or additional monitor: statement and consent to act

- 38 (1) A statement under section A39(4) of the Insolvency Act 1986 must be headed “Proposed monitor's statement and consent to act” and must contain the following—
- (a) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
 - (b) the proposed monitor's IP number,
 - (c) the name of the relevant recognised professional body which is the source of the proposed monitor's authorisation to act in relation to the company, and
 - (d) a statement that the proposed monitor consents to act as monitor in relation to the company.
- (2) The statement must be made within the period of 5 days ending with the day on which it is filed with the court.
- (3) In this paragraph “IP number” means the number assigned to an office-holder as an insolvency practitioner by the Secretary of State.

Replacement of monitor or additional monitor: notification

- 39 (1) A notice under section A39(8) of the Insolvency Act 1986 must state—
- (a) the provision under which it is given,
 - (b) the nature of the notice,

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- (c) the date of the notice,
 - (d) the identification details for the company to which it relates,
 - (e) that it is given by the monitor acting in that capacity, and
 - (f) the name and contact details of the monitor.
- (2) The notice must be authenticated by the monitor.
- (3) Rule 1.5 of the England and Wales Insolvency Rules applies for the purposes of authentication under this paragraph.

Challenge to monitor's remuneration

- 40 (1) An administrator or liquidator of a company may apply to the court on the ground that remuneration charged by the monitor in relation to a prior moratorium for the company under Part A1 of the Insolvency Act 1986 was excessive.
- (2) An application under this paragraph may not be made after the end of the period of 2 years beginning with the day after the moratorium ends.
- (3) On an application under this paragraph the court may—
- (a) dismiss the application,
 - (b) order the monitor to repay some or all of the remuneration, or
 - (c) make such other order as it thinks fit.
- (4) The costs of an application under this paragraph are, unless the court orders otherwise, to be paid as an expense of the administration or liquidation.

Challenge to directors' actions: qualifying decision procedure

- 41 Where the court makes an order by virtue of section A44(4)(c) of the Insolvency Act 1986 requiring a decision of a company's creditors, the following provisions of the England and Wales Insolvency Rules apply for the purposes of that decision to the extent set out in the court's order and subject to any modifications set out in the court's order—
- (a) Part 15 (decision making);
 - (b) Part 16 (proxies).

Priority of moratorium debts etc in subsequent winding up

- 42 (1) Where section 174A of the Insolvency Act 1986 applies, the moratorium debts and pre-moratorium debts mentioned in subsection (2)(b) of that section are payable in the following order of priority—
- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4) of that Act, the supplier would not have had to make that supply;
 - (b) wages or salary arising under a contract of employment;
 - (c) other debts or other liabilities apart from the monitor's remuneration or expenses;
 - (d) the monitor's remuneration or expenses.
- (2) In this paragraph “wages or salary” has the same meaning as in section A18 of the Insolvency Act 1986.

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Priority of moratorium debts etc in subsequent administration

- 43 (1) Where paragraph 64A(1) of Schedule B1 to the Insolvency Act 1986 applies, the moratorium debts and pre-moratorium debts mentioned in paragraph 64A(2) of that Schedule are payable in the following order of priority—
- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4) of that Act, the supplier would not have had to make that supply;
 - (b) wages or salary arising under a contract of employment;
 - (c) other debts or other liabilities apart from the monitor's remuneration or expenses;
 - (d) the monitor's remuneration or expenses.
- (2) In this paragraph “wages or salary” has the same meaning as in section A18 of the Insolvency Act 1986.

Prescribed format of documents

- 44 Rule 1.4 of the England and Wales Insolvency Rules (requirement for writing and form of documents) applies for the purposes of Part A1 of the Insolvency Act 1986.
- 45 (1) The following provisions of the England and Wales Insolvency Rules apply, so far as relevant, to any requirement imposed by a provision of this Part of this Schedule—
- rule 1.8 (prescribed format of documents), and
 - rule 1.9(1) (variations from prescribed contents).
- (2) In their application by virtue of sub-paragraph (1), a reference in rule 1.8 or 1.9(1) to the requirements of a rule is to be read as a reference to the requirements of the provision of this Part of this Schedule.

Delivery of documents

- 46 The following provisions of Chapter 9 of Part 1 of the England and Wales Insolvency Rules apply for the purposes of proceedings under Part A1 of the Insolvency Act 1986 as if rule 1.36(1) included a reference to such proceedings—
- rule 1.36(2) (delivery to registrar of companies);
 - rule 1.40 (delivery of documents to authorised recipients);
 - rule 1.41 (delivery of documents to joint office-holders);
 - rule 1.42 (postal delivery of documents);
 - rule 1.43 (delivery by document exchange);
 - rule 1.44 (personal delivery of documents);
 - rule 1.45 (electronic delivery of documents).

Applications to court

- 47 (1) The provisions of the England and Wales Insolvency Rules specified in the Table apply, so far as relevant, for the purposes of proceedings under—
- (a) Part A1 of the Insolvency Act 1986;
 - (b) this Part of this Schedule.
- (2) In their application by virtue of sub-paragraph (1), the provisions listed in the Table have effect with—

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- (a) the modification set out in sub-paragraph (3),
 - (b) the modifications specified in the Table, and
 - (c) any other necessary modifications.
- (3) The modification is that any reference to Part 1 of the Insolvency Act 1986 includes a reference to Part A1 of that Act and this Part of this Schedule.
- (4) This is the Table referred to in sub-paragraphs (1) and (2)—

<i>Insolvency Rules</i>	<i>Topic</i>	<i>Modifications</i>
Rule 1.35	Standard contents and authentication of applications	
Rules 12.1 and 12.2	Court rules and practice to apply etc	
Rule 12.3 and Schedule 6	Commencement of proceedings	
Rules 12.7 to 12.11 and 12.13	Making applications to court: general	Rule 12.9 has effect as if, in relation to a regulated company (within the meaning of section A49 of the Insolvency Act 1986), it also required the application to be served on the appropriate regulator (within the meaning of that section).
Rules 12.27 to 12.29	Obtaining information and evidence	Rule 12.29(3) has effect as if it included a reference to the monitor in relation to a moratorium.
Rules 12.30, 12.31, 12.33 and 12.35 to 12.38	Transfer of proceedings	(a) Rule 12.36(2) has effect as if the list of office-holders included the monitor in relation to a moratorium. (b) Rule 12.37(2) and (3) have effect as if the list of provisions included section A39 of the Insolvency Act 1986.
Rules 12.39 and 12.40	The court file	
Rules 12.41, 12.42(5), 12.47, 12.48 and 12.50	Costs	Rule 12.48(2) has effect as if it required the applicant to serve a sealed copy of the application on the monitor and the company to which the moratorium relates.
Rule 12.51	Enforcement of court orders	
Rules 12.58, 12.59 and 12.61 and Schedule 10	Appeals	

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Rules 12.63 to Court orders, formal
 12.65 defects and shorthand
 writers

Schedule 4,
 paragraphs 1, 4, 5
 and 6

These paragraphs of Schedule 4
 apply only for the purposes of the
 rules applied by this Table.

Identification details for a company

- 48 (1) Where a provision of this Part of this Schedule requires a document to contain identification details for a company that is registered under the Companies Act 2006 in England and Wales, the following information must be given—
- (a) the company's registered name;
 - (b) its registered number;
- (2) Where a provision of this Part of this Schedule requires a document to contain identification details for a company that has registered particulars under section 1046(1) of the Companies Act 2006 (registered overseas companies), the following information must be given—
- (a) the name registered by the company under section 1047 of that Act,
 - (b) the number under which it is registered, and
 - (c) the country or territory in which it is incorporated.
- (3) Where a provision of this Part of this Schedule requires a document to contain identification details for an unregistered company that does not come within subparagraph (2) the following information must be given—
- (a) the company's name, and
 - (b) the postal address of any principal place of business.

Contact details of a monitor or other office-holder

- 49 Where a provision of this Part of this Schedule requires a document to contain contact details of a monitor or other office-holder, the following information must be given—
- (a) a postal address for the monitor or office-holder, and
 - (b) either an email address, or a telephone number, through which the monitor may be contacted.

“The England and Wales Insolvency Rules”

- 50 In this Part of this Schedule “the England and Wales Insolvency Rules” means the Insolvency (England and Wales) Rules 2016.

Interpretation: general

- 51 Expressions used in this Part of this Schedule are to be construed as if this Part of this Schedule were contained in Part A1 of the Insolvency Act 1986.

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PART 4

TEMPORARY RULES: SCOTLAND

Introductory

- 52 Paragraphs 53 to 90 cease to have effect at the end of the relevant period, subject to paragraph 3.

Definition of “the court”

- 53 Section A54(1) of the Insolvency Act 1986 has effect as if for the definition of “the court” there were substituted—
- ““the court”, in relation to a company, means a court having jurisdiction to wind up the company;”.

Content of documents relating to the obtaining or extending of a moratorium: general

- 54 A notice or statement under section A6(1), A8(2), A10(1), A11(1) or A13(2) of the Insolvency Act 1986 must state—
- (a) the provision under which it is given or made,
 - (b) the nature of the notice or statement,
 - (c) the date of the notice or statement, and
 - (d) the identification details for the company to which it relates.

Authentication of documents relating to obtaining or extending moratorium: general

- 55 (1) A notice or statement under section A6(1), A10(1), A11(1) or A13(2) of the Insolvency Act 1986 must be authenticated by or on behalf of the person giving the notice or making the statement.
- (2) A notice under section A8(2)(a) of the Insolvency Act 1986 must be authenticated by the monitor.
- (3) Rule 1.6 of the Scottish Insolvency Rules applies for the purposes of authentication under this paragraph.

Notice that directors wish to obtain a moratorium

- 56 A notice under section A6(1)(a) of the Insolvency Act 1986 must state—
- (a) the company's address for service, and
 - (b) the court in which the documents are to be lodged under section A3 or the application under section A4 or A5 is to be made.

Proposed monitor's statement and consent to act

- 57 (1) A statement under section A6(1)(b) of the Insolvency Act 1986 must be headed “Proposed monitor's statement and consent to act” and must contain the following—
- (a) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
 - (b) the proposed monitor's IP number,

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- (c) the name of the relevant recognised professional body which is the source of the proposed monitor's authorisation to act in relation to the company, and
- (d) a statement that the proposed monitor consents to act as monitor in relation to the company.

(2) In this paragraph “IP number” means the number assigned to an office-holder as an insolvency practitioner by the Secretary of State.

Timing of statements for obtaining moratorium

58 Each statement under section A6(1)(b) to (e) of the Insolvency Act 1986 must be made within the period of 5 days ending with the day on which the documents under section A6(1)(a) to (e) are lodged in the court (or, if the documents are lodged on different days, the last of those days).

Notice by monitor where moratorium comes into force

59 A notice under section A8(2) of the Insolvency Act 1986 must—

- (a) state that it is given by the monitor acting in that capacity, and
- (b) state the name and contact details of the monitor.

Notice that directors wish to extend a moratorium

60 A notice under section A10(1)(a) or A11(1)(a) of the Insolvency Act 1986 must state—

- (a) the company's address for service,
- (b) the court in which the notice is to be lodged.

Extension under section A10 or A11 of the Insolvency Act 1986: notices and statements

61 A statement by the monitor under section A10(1)(d) or A11(1)(d) of the Insolvency Act 1986 must contain contact details of the monitor.

Timing of statements for extension under section A10 or A11

62 Each statement under section A10(1)(b) to (d) or A11(1)(b) to (e) of the Insolvency Act 1986 must be made within the period of 3 days ending with the day on which the documents under section A10(1)(a) to (d) or A11(1)(a) to (e) are lodged in the court (or, if the documents are lodged on different days, the last of those days).

Obtaining creditor consent: qualifying decision procedure

63 (1) The following apply, so far as relevant, for the purposes of a decision to consent to a revised end date for a moratorium under section A12 of the Insolvency Act 1986—

- (a) Part 5 of the Scottish Insolvency Rules (decision making), apart from rule 5.8(3)(f) and (g);
- (b) Part 6 of the Scottish Insolvency Rules (proxies), apart from rule 6.7.

(2) In its application by virtue of sub-paragraph (1), Part 5 has effect subject to the modifications set out in paragraphs 64 to 68.

64 Rule 5.11 of the Scottish Insolvency Rules (notice of decision procedures etc) has effect as if, before the first entry in the table, there were inserted—

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“moratorium decision of pre- the pre-moratorium 5 days”.
moratorium creditors
creditors under
section A12 of the
Act

65 Rule 5.26 of the Scottish Insolvency Rules (creditors' voting rights) has effect as if, before paragraph (1), there were inserted—

“(A1) A pre-moratorium creditor is entitled to vote in a decision procedure under section A12 of the Act only if—

- (a) the creditor has delivered to the convener a statement of claim and documentary evidence of debt, including any calculation for the purposes of rule 5.28 or 5.29,
- (b) the statement of claim and documentary evidence of debt were received by the convener not later than the decision date, or in the case of a meeting, at or before the meeting, and
- (c) the statement of claim and documentary evidence of debt has been admitted for the purposes of entitlement to vote.”

66 Rule 5.28 of the Scottish Insolvency Rules (calculation of voting rights) has effect as if—

- (a) before paragraph (1) there were inserted—

“(A1) In relation to a decision to consent to a revised end date for a moratorium under section A12 of the Act votes are calculated according to the amount of each creditor's claim at the decision date.”;

- (b) after paragraph (2) there were inserted—

“(2A) But in relation to a decision to consent to a revised end date for a moratorium under section A12 of the Act, a debt of an unliquidated or unascertained amount is to be valued at £1 for the purposes of voting unless the convener or chair or an appointed person decides to put a higher value on it.”;

- (c) in paragraph (6), after sub-paragraph (b) there were inserted—

“(c) where the decision relates to whether to consent to a revised end date for a moratorium under section A12 of the Act.”

67 Rule 5.29 of the Scottish Insolvency Rules (calculation of voting rights: hire-purchase agreements) has effect as if, before paragraph (1), there were inserted—

“(A1) In relation to a decision to consent to a revised end date for a moratorium under section A12 of the Act, a pre-moratorium creditor under a hire-purchase agreement is entitled to vote in respect of the amount of the debt due and payable by the company at the decision date.

(B1) In calculating the amount of any debt for the purpose of paragraph (A1), no account is to be taken of any amount attributable to the exercise of any right under the relevant agreement so far as the right has become exercisable solely by virtue of a moratorium for the company coming into force.”

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68 Rule 5.31 of the Scottish Insolvency Rules (requisite majorities) has effect as if, before paragraph (1), there were inserted—

“(A1) Subject to paragraph (B1), a decision to consent to a revised end date for a moratorium under section A12 of the Act is made if, of those voting—

- (a) a majority (in value) of the pre-moratorium creditors who are secured creditors vote in favour of the proposed decision, and
- (b) a majority (in value) of the pre-moratorium creditors who are unsecured creditors vote in favour of the proposed decision.

(B1) But a decision to consent to a revised end date for a moratorium under section A12 of the Act is not made if, of those voting either—

- (a) a majority of the pre-moratorium creditors who are unconnected secured creditors vote against the proposed end date, or
- (b) a majority of the pre-moratorium creditors who are unconnected unsecured creditors vote against the proposed end date.

(C1) For the purposes of paragraph (B1)—

- (a) a creditor is unconnected unless the convener or chair decides that the creditor is connected, and
- (b) the total value of the unconnected creditors is the total value of those unconnected creditors whose claims have been admitted for voting.”

Content of application to the court for extension of moratorium

69 (1) An application by the directors of a company for the extension of a moratorium under section A13 of the Insolvency Act 1986 must state—

- (a) that it is made under that section,
- (b) the length of the extension sought,
- (c) identification details for the company to which the application relates,
- (d) the company's address for service, and
- (e) the court in which the application is made.

(2) The application must be authenticated by or on behalf of the directors.

(3) Rule 1.6 of the Scottish Insolvency Rules applies for the purposes of authentication under sub-paragraph (2).

Timing of statements accompanying application to court for extension of moratorium

70 A statement under section A13(2) must be made within the period of 3 days ending with the day on which the application under that section is made.

Notices about change in end of moratorium

71 (1) A notice under section A17(1) of the Insolvency Act 1986 must be given within the period of 5 days beginning with the day on which the duty to give the notice arises.

(2) The notice must state—

- (a) the name of the company to which it relates, and
- (b) the provision by virtue of which the moratorium was extended or came to an end.

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- 72 (1) A notice under section A17(2) or (3) of the Insolvency Act 1986 must be given within the period of 5 days beginning with the day on which the duty to give the notice arises.
- (2) The notice must state—
- (a) the provision under which it is given,
 - (b) the nature of the notice,
 - (c) the date of the notice,
 - (d) that it is given by the monitor acting in that capacity,
 - (e) the name and contact details of the monitor, and
 - (f) the identification details for the company to which it relates.
- (3) A notice under section A17(2) or (3) of the Insolvency Act 1986 that is given to the registrar of companies must be authenticated by or on behalf of the monitor.
- (4) Rule 1.6 of the Scottish Insolvency Rules applies for the purposes of authentication under sub-paragraph (3).
- 73 Where a moratorium comes to an end under section A16 of the Insolvency Act 1986 because the company has entered into a relevant insolvency procedure within the meaning of that section, the notices under section A17(1) and (2) must state—
- (a) the date on which the company entered into the relevant insolvency procedure, and
 - (b) the name and contact details of the supervisor of the voluntary arrangement, the administrator or the liquidator.
- 74 (1) A notice under section A17(4) of the Insolvency Act 1986 must be given within the period of 3 business days beginning with the day on which the notice under section A38(1) is lodged in the court.
- (2) The notice under section A17(4) of that Act must be accompanied by the notice that the monitor has lodged in the court under section A38(1) of that Act.

Notification by directors of insolvency proceedings etc

- 75 (1) A notice under section A24(1) of the Insolvency Act 1986 must be given before the period of 3 days ending with the day on which the step mentioned there is taken.
- (2) A notice under section A24(2) of the Insolvency Act 1986 must be given within the period of 3 days beginning with the day on which the duty to give the notice arises.

Notice of termination of moratorium

- 76 (1) A notice under section A38(1) of the Insolvency Act 1986 must be lodged in the court as soon as practicable after the duty in that subsection arises.
- (2) The notice must state—
- (a) the provision under which it is given,
 - (b) the nature of the notice,
 - (c) the date of the notice,
 - (d) the name and contact details of the monitor,
 - (e) the identification details for the company to which it relates,
 - (f) the grounds on which the moratorium is being terminated,

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- (g) the monitor's reasons for concluding that those grounds are made out,
- (h) the date on which the monitor concluded that those grounds were made out, and
- (i) the court in which the notice is to be lodged.

- (3) The notice must be authenticated by or on behalf of the monitor.
- (4) Rule 1.6 of the Scottish Insolvency Rules applies for the purposes of authentication under sub-paragraph (3).

Termination of moratorium under section A38(1)(d) of the Insolvency Act 1986

- 77 For the purposes of deciding whether to bring a moratorium to an end under section A38(1)(d) of the Insolvency Act 1986 the monitor must disregard—
- (a) any debts that the monitor has reasonable grounds for thinking are likely to be paid within 5 days of the decision, and
 - (b) any debts in respect of which the creditor has agreed to defer payment until a time that is later than the decision.

Replacement of monitor or additional monitor: statement and consent to act

- 78 (1) A statement under section A39(4) of the Insolvency Act 1986 must be headed “Proposed monitor's statement and consent to act” and must contain the following—
- (a) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
 - (b) the proposed monitor's IP number,
 - (c) the name of the relevant recognised professional body which is the source of the proposed monitor's authorisation to act in relation to the company, and
 - (d) a statement that the proposed monitor consents to act as monitor in relation to the company.
- (2) The statement must be made within the period of 5 days ending with the day on which it is lodged in the court.
 - (3) In this paragraph “IP number” means the number assigned to an office-holder as an insolvency practitioner by the Secretary of State.

Replacement of monitor or additional monitor: notification

- 79 (1) A notice under section A39(8) of the Insolvency Act 1986 must state—
- (a) the provision under which it is given,
 - (b) the nature of the notice,
 - (c) the date of the notice,
 - (d) the identification details for the company to which it relates,
 - (e) that it is given by the monitor acting in that capacity, and
 - (f) the name and contact details of the monitor.
- (2) The notice must be authenticated by the monitor.
 - (3) Rule 1.6 of the Scottish Insolvency Rules applies for the purposes of authentication under sub-paragraph (2).

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Challenge to monitor's remuneration

- 80 (1) An administrator or liquidator of a company may apply to the court on the ground that remuneration charged by the monitor in relation to a prior moratorium for the company under Part A1 of the Insolvency Act 1986 was excessive.
- (2) An application under this paragraph may not be made after the end of the period of 2 years beginning with the day after the moratorium ends.
- (3) On an application under this paragraph the court may—
- (a) dismiss the application,
 - (b) order the monitor to repay some or all of the remuneration, or
 - (c) make such other order as it thinks fit.
- (4) The expenses of an application under this paragraph are, unless the court orders otherwise, to be paid as an expense of the administration or liquidation.

Challenge to directors' actions: qualifying decision procedure

- 81 Where the court makes an order by virtue of section A44(4)(c) of the Insolvency Act 1986 requiring a decision of a company's creditors, the following provisions of the Scottish Insolvency Rules apply for the purposes of that decision to the extent set out in the court's order and subject to any modifications set out in the court's order—
- (a) Part 5 (decision making);
 - (b) Part 6 (proxies).

Priority of moratorium debts etc in subsequent winding up

- 82 (1) Where section 174A of the Insolvency Act 1986 applies, the moratorium debts and pre-moratorium debts mentioned in subsection (2)(b) of that section are payable in the following order of priority—
- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4) of that Act, the supplier would not have had to make that supply;
 - (b) wages or salary arising under a contract of employment;
 - (c) other debts or other liabilities apart from the monitor's remuneration or expenses;
 - (d) the monitor's remuneration or expenses.
- (2) In this paragraph “wages or salary” has the same meaning as in section A18 of the Insolvency Act 1986.

Priority of moratorium debts etc in subsequent administration

- 83 (1) Where paragraph 64A(1) of Schedule B1 to the Insolvency Act 1986 applies, the moratorium debts and pre-moratorium debts mentioned in paragraph 64A(2) of that Schedule are payable in the following order of priority—
- (a) amounts payable in respect of goods or services supplied during the moratorium under a contract where, but for section 233B(3) or (4) of that Act, the supplier would not have had to make that supply;
 - (b) wages or salary arising under a contract of employment;

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- (c) other debts or other liabilities apart from the monitor's remuneration or expenses;
- (d) the monitor's remuneration or expenses.

(2) In this paragraph “wages or salary” has the same meaning as in section A18 of the Insolvency Act 1986.

Prescribed format of documents

84 Rule 1.5 of the Scottish Insolvency Rules (requirement for writing and form of documents) applies for the purposes of Part A1 of the Insolvency Act 1986.

85 (1) The following provisions of the Scottish Insolvency Rules apply, so far as relevant, to any requirement imposed by a provision of this Part of this Schedule—
 rule 1.9 (prescribed format of documents), and
 rule 1.10 (variations from prescribed contents).

(2) In their application by virtue of sub-paragraph (1), a reference in rule 1.9 or 1.10 to the requirements of a rule is to be read as a reference to the requirements of the provision of this Part of this Schedule.

Delivery of documents

86 The following provisions of Chapter 9 of Part 1 of the Scottish Insolvency Rules apply for the purposes of proceedings under Part A1 of the Insolvency Act 1986 as if rule 1.32(1) included a reference to such proceedings—
 rule 1.32(2) to (3) (delivery to registrar of companies);
 rule 1.36 (delivery of documents to authorised recipients);
 rule 1.37 (delivery of documents to joint office-holders);
 rule 1.38 (postal delivery of documents);
 rule 1.39 (delivery by document exchange);
 rule 1.40 (personal delivery of documents);
 rule 1.41 (electronic delivery of documents).

Identification details for a company

87 (1) Where a provision of this Part of this Schedule requires a document to contain identification details for a company that is registered under the Companies Act 2006 in Scotland, the following information must be given—

- (a) the company's registered name;
- (b) its registered number;

(2) Where a provision of this Part of this Schedule requires a document to contain identification details for a company that has registered particulars under section 1046(1) of the Companies Act 2006 (registered overseas companies), the following information must be given—

- (a) the name registered by the company under section 1047 of that Act,
- (b) the number under which it is registered, and
- (c) the country or territory in which it is incorporated.

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- (3) Where a provision of this Part of this Schedule requires a document to contain identification details for an unregistered company that does not come within subparagraph (2) the following information must be given—
- (a) the company's name, and
 - (b) the postal address of any principal place of business.

Contact details of a monitor or other office-holder

- 88 Where a provision of this Part of this Schedule requires a document to contain contact details of a monitor or other office-holder, the following information must be given—
- (a) a postal address for the monitor or office-holder, and
 - (b) either an email address, or a telephone number, through which the monitor may be contacted.

“The Scottish Insolvency Rules”

- 89 In this Part of this Schedule “the Scottish Insolvency Rules” means the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 (S.I. 2018/1082).

Interpretation: general

- 90 Expressions used in this Part of this Schedule are to be construed as if this Part of this Schedule were contained in Part A1 of the Insolvency Act 1986.

PART 5

ENTITIES OTHER THAN COMPANIES

- 91 Regulations under section 14(1) of the Limited Liability Partnership Act 2000 may make provision applying or incorporating provision made by or under this Schedule, with such modifications as appear appropriate, in relation to a limited liability partnership registered in Great Britain.
- 92 An order or regulations under section 118(1)(a), (3B) or (3C) of the Co-operative and Community Benefit Societies Act 2014 may provide for provision made by or under this Schedule to apply (with or without modifications) in relation to registered societies (or to registered societies of the kind mentioned there).

Changes to legislation:

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