



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART A1

MORATORIUM

CHAPTER 3

LENGTH OF MORATORIUM

[^{F1}Extension 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)**)

A10 Extension by directors without creditor consent

- (1) During the initial period, but after the first 15 business days of that period, the directors may extend the moratorium by filing with the court—
- (a) a notice that the directors wish to extend the moratorium,
 - (b) a statement from the directors that all of the following that have fallen due have been paid or otherwise discharged—
 - (i) moratorium debts, and
 - (ii) pre-moratorium debts for which the company does not have a payment holiday during the moratorium (see section A18),
 - (c) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its pre-moratorium debts, and
 - (d) a statement from the monitor that, in the monitor's view, it is likely that the moratorium will result in the rescue of the company as a going concern.

Changes to legislation: Insolvency Act 1986, Cross Heading: Extension of moratorium is up to date with all changes known to be in force on or before 21 May 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

- (2) The rules may make provision about the date on which a statement mentioned in subsection (1) must be made.
- (3) On the filing with the court of the documents mentioned in subsection (1), the moratorium is extended so that it ends at the end of the period—
 - (a) beginning immediately after the initial period ends, and
 - (b) ending with the 20th business day after the initial period ends.

Modifications etc. (not altering text)

- C1** S. A10(1)(d) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 8\(2\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

A11 Extension by directors with creditor consent

- (1) At any time after the first 15 business days of the initial period the directors may, if they have obtained creditor consent, extend the moratorium by filing with the court—
 - (a) a notice that the directors wish to extend the moratorium,
 - (b) a statement from the directors that all of the following that have fallen due have been paid or otherwise discharged—
 - (i) moratorium debts, and
 - (ii) pre-moratorium debts for which the company does not have a payment holiday during the moratorium (see section A18),
 - (c) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its pre-moratorium debts,
 - (d) a statement from the monitor that, in the monitor’s view, it is likely that the moratorium will result in the rescue of the company as a going concern, and
 - (e) a statement from the directors that creditor consent has been obtained, and of the revised end date for which that consent was obtained.
- (2) The rules may make provision about the date on which a statement mentioned in subsection (1) must be made.
- (3) On the filing with the court of the documents mentioned in subsection (1), the moratorium is extended so that it ends with the revised end date mentioned in the statement under subsection (1)(e).
- (4) A moratorium may be extended under this section more than once.

Modifications etc. (not altering text)

- C2** S. A11(1)(d) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 8\(2\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

A12 Creditor consent for the purposes of section A11

- (1) References in section A11 to creditor consent are to the consent of pre-moratorium creditors to a revised end date for the moratorium.
- (2) The decision as to consent is to be made using a qualifying decision procedure.

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- (3) The revised end date must be a date before the end of the period of one year beginning with the first day of the initial period.
- (4) In this section “pre-moratorium creditor” means a creditor in respect of a pre-moratorium debt—
 - (a) for which the company has a payment holiday during the moratorium (see section A18), and
 - (b) which has not been paid or otherwise discharged.
- (5) In determining for the purposes of subsection (4) what counts as a pre-moratorium debt for which the company has a payment holiday during the moratorium, sections A18(3) and A53(1)(b) apply as if the references to the moratorium were to the moratorium as proposed to be extended.
- (6) The Secretary of State may by regulations amend this section for the purposes of changing the definition of “pre-moratorium creditor”.
- (7) Regulations under subsection (6) are subject to the affirmative resolution procedure.

A13 Extension by court on application of directors

- (1) At any time after the first 15 business days of the initial period, the directors may apply to the court for an order that the moratorium be extended.
- (2) The application must be accompanied by—
 - (a) a statement from the directors that all of the following that have fallen due have been paid or otherwise discharged—
 - (i) moratorium debts, and
 - (ii) pre-moratorium debts for which the company does not have a payment holiday during the moratorium (see section A18),
 - (b) a statement from the directors that, in their view, the company is, or is likely to become, unable to pay its pre-moratorium debts,
 - (c) a statement from the directors as to whether pre-moratorium creditors (as defined by section A12(4) and (5)) have been consulted about the application and if not why not, and
 - (d) a statement from the monitor that, in the monitor’s view, it is likely that the moratorium will result in the rescue of the company as a going concern.
- (3) The rules may make provision about the date on which a statement mentioned in subsection (2) must be made.
- (4) On hearing the application the court may—
 - (a) make an order that the moratorium be extended to such date as is specified in the order, or
 - (b) make any other order which the court thinks appropriate.
- (5) In deciding whether to make an order under subsection (4)(a) the court must, in particular, consider the following—
 - (a) the interests of pre-moratorium creditors, as defined by section A12(4) and (5), and
 - (b) the likelihood that the extension of the moratorium will result in the rescue of the company as a going concern.

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- (6) Subsection (7) applies where—
- (a) an application under this section is made, and
 - (b) apart from that subsection, the moratorium would end at a time before the application has been disposed of.
- (7) The moratorium—
- (a) does not end at the time mentioned in subsection (6)(b), and
 - (b) instead, ends—
 - (i) in a case in which the court makes an order under subsection (4)(a), in accordance with the order;
 - (ii) otherwise, when the application is withdrawn or disposed of.
- (8) A moratorium may be extended under this section more than once.

Modifications etc. (not altering text)

- C3** S. A13(2)(d) modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 4 para. 8\(3\)](#) (with ss. 2(2), 5(2), [Sch. 4 para. 1](#))

A14 Extension while proposal for CVA pending

- (1) Subsection (2) applies where—
- (a) at any time, the directors make a proposal under Part 1 (company voluntary arrangements), and
 - (b) apart from that subsection, the moratorium would end at a time before the proposal is disposed of.
- (2) The moratorium—
- (a) does not end at the time mentioned in subsection (1)(b), and
 - (b) instead, ends when the proposal is disposed of.
- (3) For the purposes of this section a proposal under Part 1 is “disposed of” when any of the following takes place—
- (a) the company and its creditors both decide under section 4 not to approve the voluntary arrangement contained in the proposal;
 - (b) the decisions taken by the company and its creditors under section 4 differ, and—
 - (i) the period for making an application under section 4A(3) expires and either no application has been made within that period or any application made within that period has been withdrawn, or
 - (ii) an application is made under section 4A(3) and that application is disposed of, or it is withdrawn after the expiry of the period for making an application under section 4A(3);
 - (c) the voluntary arrangement contained in the proposal takes effect under section 5;
 - (d) the proposal is withdrawn.

A15 Extension by court in the course of other proceedings

- (1) Subsection (2) applies where—

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- (a) an application is made under section 896 or 901C(1) of the Companies Act 2006 (arrangements and reconstructions: court order for holding of meeting) in respect of a company, and
 - (b) during proceedings before a court in connection with the application, a moratorium for the company is in force.
- (2) The court may make an order that the moratorium be extended to such date as is specified in the order.]

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