
STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

[^{F1}PART 1A

Moratorium

[^{F1}CHAPTER 6

Challenges

F1 Pt. 1A inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), [ss. 4\(1\), 49\(1\)](#) (with [ss. 2\(2\), 5\(2\)](#))

Challenge to monitor's actions

13F.—(1) Any of the persons specified below may apply to the High Court on the ground that an act, omission or decision of the monitor during a moratorium has unfairly harmed the interests of the applicant.

(2) The persons who may apply are—

- (a) a creditor, director or member of the company, or
- (b) any other person affected by the moratorium.

(3) An application under paragraph (1) may be made during the moratorium or after it has ended.

(4) On an application under paragraph (1) the Court may—

- (a) confirm, reverse or modify any act or decision of the monitor,
- (b) give the monitor directions, or

(c) make such other order as it thinks fit (but may not, under this sub-paragraph, order the monitor to pay any compensation).

(5) Where an application under paragraph (1) relates to a failure by the monitor to bring the moratorium to an end under Article 13ED(1), an order under paragraph (4) may, in particular, bring the moratorium to an end and make such consequential provision as the Court thinks fit.

(6) Where an application under paragraph (1) relates to the monitor bringing a moratorium to an end under Article 13ED(1), an order under paragraph (4) may, in particular, provide that the moratorium is not to be taken into account for the purposes of paragraph 2(1)(b) of Schedule ZA1 (company not eligible for moratorium if moratorium in force within previous 12 months).

(7) In making an order under paragraph (4) 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.

(8) See also Article 13CH (obligations to notify change in end of moratorium).

Status: Point in time view as at 26/06/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, CHAPTER 6 is up to date with all changes known to be in force on or before 06 July 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)

Challenges to monitor remuneration in insolvency proceedings

13FA.—(1) The rules may confer on an administrator or liquidator of a company the right to apply to the High Court on the ground that remuneration charged by the monitor in relation to a prior moratorium for the company was excessive.

- (2) Rules under paragraph (1) may (among other things) make provision as to—
- (a) time limits;
 - (b) disposals available to the Court;
 - (c) the treatment of costs of the application in the administration or winding up.

Challenge to directors' actions

13FB.—(1) A creditor or member of a company may apply to the High Court for an order under this Article 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 paragraph (1) may be made during the moratorium or after it has ended.

(3) On an application under paragraph (1) the Court may make such order as it thinks fit.

(4) An order under paragraph (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 the summoning of a meeting of the company's creditors for the purpose of considering such matters as the Court may direct, or
- (d) bring the moratorium to an end and make such consequential provision as the Court thinks fit.

(5) In making an order under paragraph (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 Article 13CH (obligations to notify change in end of moratorium).

Challenge brought by Board of the Pension Protection Fund

13FC.—(1) This Article applies where—

- (a) a moratorium—
 - (i) is in force in relation to a company that is an employer in respect of an eligible scheme, or
 - (ii) is or has been in force in relation to a company that has been an employer in respect of an eligible scheme at any time during the moratorium, and
- (b) the trustees or managers of the scheme are a creditor of the company.

(2) The Board of the Pension Protection Fund may make any application under Article 13F(1) or 13FB(1) that could be made by the trustees or managers as a creditor.

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(3) For the purposes of such an application, any reference in Article 13F(1) or 13FB(1) to the interests of the applicant is to be read as a reference to the interests of the trustees or managers as a creditor.

(4) In this Article “eligible scheme” has the meaning given by Article 110 of the Pensions (Northern Ireland) Order 2005.]

Status:

Point in time view as at 26/06/2020.

Changes to legislation:

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