



Insolvency Act 1986

1986 CHAPTER 45

[^{F1}PART A1

MORATORIUM

CHAPTER 4

EFFECTS OF MORATORIUM

Disposals of property free from charges etc

[^{F1}A31 Disposal of charged property free from charge

- (1) During a moratorium, the company may, with the permission of the court, dispose of property which is subject to a security interest as if it were not subject to the security interest.
- (2) The court may give permission under subsection (1) only if the court thinks that it will support the rescue of the company as a going concern.
- (3) Where the court gives permission under subsection (1) other than in relation to a floating charge, the company must apply the following towards discharging the sums secured—
 - (a) the net proceeds of disposal of the property, and
 - (b) any money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the property in the open market by a willing vendor.
- (4) Where the permission relates to two or more security interests, the condition in subsection (3) requires the application of money in the order of the priorities of the security interests.

Changes to legislation: Insolvency Act 1986, Section A31 is up to date with all changes known to be in force on or before 12 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

- (5) Where property subject to a floating charge is disposed of under subsection (1), the holder of the floating charge has the same priority in respect of acquired property as they had in respect of the property disposed of.
- (6) In subsection (5) “acquired property” means property of the company which directly or indirectly represents the property disposed of.
- (7) Where the court makes an order giving permission under subsection (1), the directors must, within the period of 14 days beginning with the date of the order, send a copy of it to the registrar of companies.
- (8) If the directors fail to comply with subsection (7), any director who did not have a reasonable excuse for the failure commits an offence.
- (9) Where property in Scotland is disposed of under subsection (1), the company must grant to the donee an appropriate document of transfer or conveyance of the property, and—
- (a) that document, or
 - (b) recording, intimation or registration of that document (where recording, intimation or registration of the document is a legal requirement for completion of title to the property),
- has the effect of disencumbering the property of or, as the case may be, freeing the property from, the security interest.
- (10) If a company fails to comply with subsection (3) or (9)—
- (a) the company commits an offence, and
 - (b) any officer of the company who without reasonable excuse authorised or permitted the failure commits an offence.
- (11) Subsection (1) does not apply in relation to any property which is subject to a financial collateral arrangement, a market charge, a system-charge or a collateral security (as defined by section A27).]

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))

Modifications etc. (not altering text)

C1 Ss. A29-A32 excluded by S.I. 2015/912, reg. 37(12A)(d) (as inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 3 para. 55(4)** (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\(3\)\(b\)](#)