
STATUTORY INSTRUMENTS

2021 No. 1028

The Insolvency (England and Wales)
(No.2) (Amendment) Rules 2021

PART 2

Insertion of Part 1A into the Insolvency Rules

New Part 1A of the Insolvency Rules

6. After Part 1 of the Insolvency Rules (scope, interpretation, time and rules about documents) insert—

“PART 1A

MORATORIUMS

CHAPTER 1

Preliminary

[Note: in accordance with rules 4 and 5 of the Insolvency (England and Wales) (No.2) (Amendment) Rules 2021 this Part applies only in relation to moratoriums under section A3 of the Act that come into force on or after 1st October 2021 and in relation to moratoriums under sections A4 and A5 of the Act where the application to the court is made on or after 1st October 2021.]

Application of Part 1A

1A.1. This Part applies for the purposes of a moratorium under Part A1 of the Act.

CHAPTER 2

Obtaining moratorium by filing notice at court

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of Chapter

1A.2. This Chapter applies for the purposes of obtaining a moratorium under section A3.

Obtaining a moratorium by filing documents at court (section A3): notice of filing

1A.3.—(1) The directors must (in addition to the relevant documents referred to in section A6) file a notice with the court (referred to as a “notice of filing”).

- (2) The notice of filing must—
- (a) be accompanied by the relevant documents,
 - (b) be headed “Moratorium under section A3 of the Insolvency Act 1986: notice of filing”,
 - (c) state—
 - (i) that the directors wish to obtain a moratorium under section A3 of the Act,
 - (ii) the names of the persons filing the notice,
 - (iii) the identification details for the company,
 - (iv) the court (and where applicable the division or district registry of that court) or hearing centre in which the notice is filed,
 - (v) where the court has previously allocated a number to the insolvency proceedings within which the notice is filed, that number, and
 - (vi) the date on which the notice is filed, and
 - (d) be authenticated by, or on behalf of, the person filing the notice.
- (3) The notice of filing must be endorsed by the court with the date and time of filing.

The relevant documents: contents and requirements (section A6)

- 1A.4.**—(1) Each relevant document must—
- (a) state the nature of the document,
 - (b) identify the proceedings,
 - (c) contain the identification details for the company, and
 - (d) be authenticated by, or on behalf of, the person giving the notice or making the statement (as the case may be).
- (2) The statements under section A6(1)(b) to (e) must—
- (a) be made within the period of five business days ending with the day on which the notice of filing is filed with the court, and
 - (b) specify the date on which the statement is made.

The relevant documents: further requirements relating to the proposed monitor’s statement and consent to act (section A6(1)(b))

- 1A.5.** A statement under section A6(1)(b) must—
- (a) be headed “Proposed monitor’s statement and consent to act”, and
 - (b) contain—
 - (i) a certificate that the proposed monitor⁽¹⁾ is qualified to act as an insolvency practitioner in relation to the company,
 - (ii) the name of the relevant recognised professional body which is the source of the proposed monitor’s authorisation,
 - (iii) the proposed monitor’s IP number, and
 - (iv) a statement that the proposed monitor consents to act as monitor in relation to the company.

(1) “Monitor” in relation to a moratorium is defined in section A54.

Directions

1A.6. The court may at any time give such directions as it thinks just as to service of the notice of filing on any person.

CHAPTER 3

Obtaining a moratorium by application to the court

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of Chapter

1A.7. This Chapter applies for the purposes of an application to the court to obtain a moratorium—

- (a) for a company subject to a winding-up petition under section A4, or
- (b) for an overseas company under section A5.

Moratorium application (sections A4 and A5)

1A.8.—(1) An application for a moratorium under sections A4 or A5 must—

- (a) specify the date on which the application is filed, and
- (b) be accompanied by the relevant documents (as to which see section A6).

(2) The application must be endorsed by the court with the date and time of filing.

The relevant documents: contents and requirements (section A6)

1A.9.—(1) Each relevant document must—

- (a) state the nature of the document,
- (b) identify the proceedings,
- (c) contain the identification details for the company, and
- (d) be authenticated by, or on behalf of, the person giving the notice or making the statement (as the case may be).

(2) The statements under section A6(1)(b) to (e) must—

- (a) be made within the period of five business days ending with the day on which the application is filed with the court, and
- (b) specify the date on which the statement is made.

The relevant documents: further requirements relating to the monitor's statement and consent to act (section A6(1)(b))

1A.10. A statement under section A6(1)(b) must—

- (a) be headed "Proposed monitor's statement and consent to act for the purposes of a moratorium under Part A1 of the Insolvency Act 1986" and
- (b) contain—
 - (i) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,

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

CHAPTER 4

Obligations to notify where moratorium comes into force

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Notice given by court where moratorium comes into force:

1A.11. As soon as reasonably practicable after the coming into force of a moratorium the court must deliver to the directors a sealed copy of the document referred to in paragraph (a) or (b) (as the case may be) endorsed with the date and time of filing—

- (a) in the case of a moratorium under section A3, the notice of filing referred to in rule 1A.3, or
- (b) in the case of a moratorium under section A4 or A5, the application referred to in rule 1A.8.

Notice given by monitor where moratorium comes into force: standard contents and requirements

1A.12.—(1) Notification of the coming into force of a moratorium required by section A8(1) must be delivered—

- (a) to the persons specified in section A8(2), and
 - (b) where paragraph (2) applies, in accordance with that paragraph.
- (2) Paragraph (3) applies where—
- (a) notification is required to be given to any of the persons referred to in section A8(2)(b) to (d), or
 - (b) the moratorium is for a company which is a regulated company within the meaning given by section A49.
- (3) Where this paragraph applies—
- (a) rule 1.19(3) (copy of a document delivered to registrar of companies may be used to satisfy requirements for delivery to other persons) does not apply, and
 - (b) the monitor must deliver a copy of the document delivered to the registrar of companies to—
 - (i) the persons referred to in section A8(2)(b) to (d), for the purpose of giving the notification required by those paragraphs, and
 - (ii) the appropriate regulator, for the purpose of giving the notification required by section A49(3)(2).

(2) “Appropriate regulator” is defined in section A49.

CHAPTER 5

Extending moratorium by filing notice with the court

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of Chapter

1A.13. This Chapter applies for the purposes of extending a moratorium under sections A10 and A11.

Extending a moratorium by filing notice with the court (sections A10 and A11): notice of extension

1A.14.—(1) The directors must file a notice with the court (referred to as a “notice of extension”).

(2) The notice of extension must—

- (a) be accompanied by the documents referred to in section A10(1) or A11(1) (as the case may be),
- (b) be headed “Notice of extension of a moratorium under section A10/A11 of the Insolvency Act 1986”,
- (c) state—
 - (i) that the notice is filed for the purpose of extending a moratorium,
 - (ii) whether the extension is under section A10 or section A11 of the Insolvency Act 1986,
 - (iii) the names of the persons filing the notice,
 - (iv) the identification details of the company,
 - (v) the court (and where applicable the division or district registry of that court) or hearing centre in which the notice is filed,
 - (vi) where the court has previously allocated a number to the insolvency proceedings in which the notice is filed, that number, and
 - (viii) the date on which the notice is filed, and
- (d) be authenticated by, or on behalf of, the person filing the notice.

(3) The notice of extension must be endorsed by the court with the date and time of filing.

Documents filed with the court under sections A10(1) or A11(1) of the Act: contents and requirements

1A.15.—(1) Each document filed with the court under section A10(1) or A11(1) must—

- (a) state the nature of the document,
 - (b) identify the proceedings,
 - (c) contain the identification details for the company,
 - (d) be authenticated by, or on behalf of, the person giving the notice or making the statement (as the case may be).
- (2) The statement under section A11(1)(e) must also state—
- (a) a description of the procedure used,
 - (b) the venue,

- (c) whether, in the case of a meeting, the required quorum was in place, and
 - (d) the outcome.
- (3) The statements under section A10(1)(b) to (d) or A11(1)(b) to (e) (as the case may be) must—
- (a) be made within the period of three business days ending with the day on which the notice of extension is filed with the court, and
 - (b) specify the date on which the statement is made.

Directions

1A.16. The court may at any time give such directions as it thinks just as to service of the notice of extension on or to any person.

CHAPTER 6

Extending moratorium by application to the court

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Application of Chapter

1A.17. This Chapter applies for the purposes of extending a moratorium by application to the court under section A13.

Extending a moratorium by application to the court (section A13)

- 1A.18.**—(1) An application for an extension to a moratorium under section A13 must—
- (a) specify the date on which the application is filed, and
 - (b) be accompanied by the documents referred to in section A13(2).
- (2) The application must be endorsed by the court with the date and time of filing.

Documents filed with the court under section A13(2): contents and requirements

- 1A.19.**—(1) Each document filed with the court under section A13(2) must—
- (a) state the nature of the document,
 - (b) identify the proceedings,
 - (c) contain the identification details for the company, and
 - (d) be authenticated by, or on behalf of, the person making the statement.
- (2) The statements comprised in a document filed with the court under section A13(2) must—
- (a) be made within the period of three business days ending with the day on which the application is filed with the court, and
 - (b) specify the date on which the statement is made.

CHAPTER 7

Notices about change in the end of moratorium

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Notification by directors to the monitor under section A17(1) of the Act: contents and requirements

- 1A.20.**—(1) A notice under section A17(1) must be delivered to the monitor.
- (2) The notice must—
- (a) be delivered within the period of three business days beginning with the day on which the duty to give the notice arises, and
 - (b) contain—
 - (i) the identification details for the company,
 - (ii) a statement specifying the provision in Part A1 of the Insolvency Act 1986 by virtue of which the moratorium was extended or came to an end (as the case may be) and
 - (iii) if the moratorium has come to an end by virtue of section A16(1)(a) or (b) (company enters into insolvency procedure etc.) the additional information required by paragraph (3).
- (3) The additional information that is required if a moratorium has come to an end by virtue of—
- (a) section A16(1)(a), is the date on which the compromise or arrangement⁽³⁾ came into effect, or
 - (b) section A16(1)(b), is—
 - (i) the date on which the company entered into the relevant insolvency procedure⁽⁴⁾, and
 - (ii) the contact details for the office-holder for that procedure.

Notification by the monitor to the relevant persons under sections A17(2) or (3) of the Act: contents and requirements

- 1A.21.**—(1) Notification under section A17(2) or (3) must—
- (a) be delivered—
 - (i) to the relevant persons⁽⁵⁾ specified in section A17(8)(a) to (d), and
 - (ii) where paragraph (4) applies, in accordance with that paragraph, and
 - (b) if the moratorium has come to an end by virtue of section A16(1)(b), contain the additional information referred to in paragraph (5).
- (2) Notification delivered under this rule must be delivered within the period of five business days beginning with the day on which the duty to give the notice arises.
- (3) Paragraph (4) applies where—
- (a) notification is required to be given to any of the relevant persons referred to in section A17(8)(b) to (d), or

⁽³⁾ “compromise or arrangement” is defined in section A16(2).

⁽⁴⁾ “relevant insolvency procedure” is defined in section A16(3).

⁽⁵⁾ “relevant person” is defined in section A17(8).

- (b) the moratorium is for a company which is a regulated company within the meaning given by section A49(13).
- (4) Where this paragraph applies—
 - (a) rule 1.19(3) (copy of a document delivered to registrar of companies may be used to satisfy requirements for delivery to other persons) does not apply, and
 - (b) the monitor must deliver a copy of the document delivered to the registrar of companies to—
 - (i) the persons referred to in section A17(8)(b) to (d), for the purpose of giving the notification required by those paragraphs, and
 - (ii) the appropriate regulator, for the purpose of giving the notification required by section A49(3).
- (5) The additional information that is required if a moratorium has come to an end by virtue of section A16(1)(b) is—
 - (a) the date on which the company entered into the relevant insolvency procedure, and
 - (b) the contact details for the office-holder for that procedure.

[Note: Chapter 9 includes provision about notification by the monitor to the company etc. where the end of the moratorium changes by virtue of a notice given to the court under section A38 (termination of moratorium by monitor).]

CHAPTER 8

Notification by directors of insolvency proceedings

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Notification by directors to the monitor of insolvency proceedings (section A24)

1A.22. Notice by the directors of certain insolvency proceedings under section A24 must be delivered within the period of—

- (a) in the case of a notice under subsection (1), three business days ending with the day on which any of the steps mentioned in paragraphs (a) to (c) of that subsection is to be taken, and
- (b) in the case of a notice under sub-section (2), three business days beginning with the day on which the duty to give the notice arises.

CHAPTER 9

Termination of moratorium by monitor

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Notice bringing moratorium to an end (section A38)

1A.23.—(1) Notice bringing the moratorium to an end under section A38 must—

- (a) be filed with the court—
 - (i) as soon as practicable after the duty to bring the moratorium to an end arises, and

- (ii) together with one copy for the company.
 - (b) be headed “Notice of termination of moratorium by monitor under section A38 of the Insolvency Act 1986”,
 - (c) state—
 - (i) that the notice is filed for the purpose of terminating a moratorium under section A38 of the Insolvency Act 1986,
 - (ii) the identification details of the company,
 - (iii) the name and contact details of the monitor,
 - (iv) the court (and where applicable the division or district registry of that court) or hearing centre in which the notice is filed,
 - (v) where the court has previously allocated a number to the insolvency proceedings within which the notice is filed, that number,
 - (vi) the date on which the notice is filed,
 - (vii) the grounds on which the moratorium is to be terminated,
 - (viii) the monitor’s reasons for concluding that those grounds are made out, and
 - (ix) the date on which the monitor concluded that those grounds were made out, and
 - (d) be authenticated by, or on behalf of, the monitor.
- (3) The court must endorse both the notice and the copy of the notice with the date and time of filing.
- (4) The copy of the notice must have the seal of the court applied to it and must be delivered to the monitor.
- (5) The monitor must deliver—
- (a) the sealed copy of the notice to the company, and
 - (b) further copies of that notice to—
 - (i) the registrar of companies, and
 - (ii) where paragraph (7) applies, the persons specified in paragraph 7(b),
- within the period of three business days beginning with the day on which the sealed copy of the notice is delivered to the monitor.
- (6) Paragraph (7) applies where—
- (a) notification is required to be given to any of the relevant persons referred to in section A17(8)(b) to (d), or
 - (b) the moratorium is for a company which is a regulated company within the meaning given by section A49(13).
- (7) Where this paragraph applies—
- (a) rule 1.19(3) (copy of document delivered to registrar of companies may be used to satisfy requirements for delivery to other persons) does not apply, and
 - (b) the monitor must deliver a copy of the document delivered to the registrar of companies to—
 - (i) the persons referred to in section A17(8)(b) to (d) for the purpose of giving the notification required by those paragraphs, and
 - (ii) the appropriate regulator, for the purpose of giving the notification required by section A49(3).

Debts that are to be disregarded for the purposes of section A38(1)(d) of the Act

1A.24. For the purposes of deciding whether to bring a moratorium to an end under section A38(1)(d) the monitor must disregard—

- (a) any debts that the monitor has reasonable grounds for thinking are likely to be—
 - (i) paid, or
 - (ii) compounded to the satisfaction of the creditor, within five business 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.

CHAPTER 10

Replacement of monitor or appointment of additional monitor

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Replacement of monitor or appointment of additional monitor, monitor’s statement and consent to act: contents and requirements (section A39(4))

1A.25.—(1) A statement by a proposed replacement or additional monitor under section A39(4) must be filed with the court.

- (2) The statement must—
 - (a) be headed “Proposed monitor’s statement and consent to act for the purposes of a moratorium under Part A1 of the Insolvency Act 1986”,
 - (b) contain—
 - (i) a certificate that the proposed monitor is qualified to act as an insolvency practitioner in relation to the company,
 - (ii) the name of the relevant recognised professional body which is the source of the proposed monitor’s authorisation,
 - (iii) the proposed monitor’s IP number, and
 - (iv) a statement that the proposed monitor consents to act as a replacement monitor or an additional monitor (as the case may be) in relation to the company,
 - (c) specify the date on which the statement was made,
 - (d) be authenticated by the proposed replacement monitor or the proposed additional monitor, and
 - (e) be made within the period of five business days ending with the day on which the statement is filed with the court.

Notice to be given by monitor of replacement of monitor or appointment of additional monitor (section A39(8))

1A.26.—(1) Notification of the appointment of a replacement monitor or the appointment of an additional monitor by virtue of an order under section A39(1) must be delivered—

- (a) to the persons specified in section A39(8), and
- (b) where paragraph (2) applies, in accordance with that paragraph.

- (2) Paragraph (3) applies where—
 - (a) notification is required to be given to any of the persons referred to in section A39(8)(b) to (d), or
 - (b) the moratorium is for a company which is a regulated company within the meaning given by section A49(13).
- (3) Where this paragraph applies—
 - (a) rule 1.19(3) (copy of document delivered to registrar of companies may be used to satisfy requirements for delivery to other persons) does not apply, and
 - (b) the monitor must deliver a copy of the document delivered to the registrar of companies to—
 - (i) for the purpose of giving the notification required by section A39(8)(b) to (d), each of the persons referred to in those paragraphs (as applicable), and
 - (ii) for the purpose of giving the notification required by section A49(3), the appropriate regulator.

CHAPTER 11

Challenges to monitor remuneration

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Challenges to monitor remuneration in subsequent insolvency proceedings

1A.27.—(1) An administrator or liquidator may apply to the court on the grounds that remuneration charged by the monitor in relation to a prior moratorium was excessive.

(2) An application under paragraph (1) may not be made after the end of the period of 2 years beginning with the day after the day on which the moratorium ends.

- (3) On an application under paragraph (1) the court may—
 - (a) dismiss the application,
 - (b) order the monitor—
 - (i) to repay some or all of the remuneration, and
 - (ii) to pay interest on that sum at the rate specified in paragraph (4) for the period beginning with the date on which the remuneration was paid to the monitor and ending with the date of repayment, or
 - (c) make such other order as it sees fit.

(4) The rate specified for the purpose of paragraph (3)(b)(ii) is the rate specified in section 17 of the Judgments Act 1838(6) on the date on which the remuneration was paid to the monitor.

CHAPTER 12

Applications to court

[Note: a document required by the Act of these Rules must also contain the standard contents set out in Part 1.]

(6) Section 17 is amended by the Statute Law Revision (No 2) Act 1888 (c.57), article 2 of S.I. 1993/564, article 3 of S.I. 1998/2940, Part 1 of the Schedule to the Civil Procedure Acts Repeal Act 1879 (c.59) and article 3(c) of S.I. 1998/3132.

Application of Chapter

- 1A.28.** This Chapter applies where an application is made to the court under—
- (a) section A21 (restrictions on enforcement and legal proceedings),
 - (b) section A31 (disposal of charged property free from charge),
 - (c) section A32 (disposal of hire-purchase property),
 - (d) section A37 (application by monitor for directions),
 - (e) section A39 (replacement of monitor or appointment of additional monitor),
 - (f) section A42 (challenge to monitor’s actions),
 - (g) section A43 and rule 1A.27(1) (challenges to monitor remuneration in insolvency proceedings), or
 - (h) section A44 (challenge to directors’ actions).

Procedure for filing of application

- 1A.29.**—(1) An application to which this Chapter applies must—
- (a) identify the date on which the application is filed, and
 - (b) be filed at the court together with copies for—
 - (i) each of the persons specified in the third column of the Table in rule 1A.30(2), and
 - (ii) where the application is made in respect of a regulated company within the meaning given by section A49, the appropriate regulator (as defined in that section).
- (2) The date and time of filing of the application must be endorsed on the application and on the copies.
- (3) Each copy of the application must have the seal of the court applied to it and must be delivered to the applicant.

Service of the application

- 1A.30.**—(1) The applicant must serve a sealed copy of the application—
- (a) in accordance with—
 - (i) Schedule 4, and
 - (ii) the Table in paragraph (2),
 - (b) in a case where the application is made in respect of a regulated company within the meaning given by section A49, on the appropriate regulator, and
 - (c) at least 14 days before the date fixed for the hearing unless—
 - (i) the case is urgent and the court acts under rule 12.10, or
 - (ii) the court extends or abridges the time limit.
- (2) This is the Table referred to in paragraph (1)—

<i>Section of the Act</i>	<i>Topic</i>	<i>Persons on whom application must be served</i>
A21	Restrictions on enforcement and legal proceedings	The company and the monitor

<i>Section of the Act</i>	<i>Topic</i>	<i>Persons on whom application must be served</i>
A31	Disposal of charged property free from charge	The holder of the security interest and the monitor
A32	Disposal of hire-purchase property	The owner of the property and the monitor
A37	Application by monitor for directions	The company
A39	Replacement of monitor or appointment of additional monitor	The monitor, in cases where the application is made by the directors. The directors in cases where the application is made by the monitor.
A42	Challenge to monitor's actions	The company and the monitor
A43 and rule 1A.27(1)	Challenges to monitor remuneration in insolvency proceedings	The directors and the monitor
A44	Challenge to director's actions	The directors and the monitor

Notice of opposition

1A.31.—(1) A person on whom an application has been served who intends to oppose the application must, not less than three business days before the day fixed for the hearing—

- (a) file a notice with the court which complies with the requirements of paragraph (2), and
 - (b) deliver a copy of the notice to—
 - (i) the applicant or the applicant's solicitor, and
 - (ii) (where applicable) each of the other persons specified in the third column of the Table in rule 1A.30(2) on whom notice of the application is required to be served.
- (2) The notice must—
- (a) identify the proceedings,
 - (b) state that the person intends to oppose the application,
 - (c) state the grounds on which the person opposes the application, and
 - (d) state whether the person intends to appear on the hearing of the application.

Notice where the court grants permission under section A31 or A32

1A.32.—(1) This rule applies where the court grants permission on an application in respect of—

- (a) the disposal of charged property by a company free from charge under section A31, or
- (b) the disposal of hire-purchase property by a company under section A32.

(2) Where this rule applies the court must deliver two sealed copies of the order to the company as soon as reasonably practicable after the order is made.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) As soon as reasonably practicable after receiving copies of the order under paragraph (2) the company must deliver one copy to the holder of the security or the owner of the hire-purchase goods (as the case may be).”.