



# Corporate Insolvency and Governance Act 2020

## 2020 CHAPTER 12

### *Implementation of insolvency measures*

#### **43 Modified procedure for regulations of the Secretary of State**

- (1) During the period of six months beginning with the day on which this section comes into force, any relevant provision that may be made by the Secretary of State by regulations that are subject to the affirmative resolution procedure may be made by regulations that are subject to the made affirmative procedure.
- (2) In subsection (1) “relevant provision” means—
  - (a) provision under section A50(1) or (4) of the Insolvency Act 1986 (power to modify moratorium provisions in relation to certain companies);
  - (b) provision under section A51(1) of the Insolvency Act 1986 (moratorium: power to make provision in connection with pension schemes);
  - (c) provision under paragraph 20 of Schedule ZA1 to the Insolvency Act 1986 to exclude private registered providers of social housing from being eligible companies for the purposes of Part A1 of that Act;
  - (d) provision under section 14 or 16 of the Limited Liability Partnerships Act 2000 (insolvency etc and power to make consequential amendments) to the extent that the provision is made in connection with the application of Part A1 of the Insolvency Act 1986 to limited liability partnerships that are registered providers of social housing;
  - (e) provision under section 245 of the Charities Act 2011 (insolvency etc of charitable incorporated organisations etc) to the extent that the provision applies, or is otherwise made in connection with, the new insolvency measures.
- (3) During the period of six months beginning with the day on which this section comes into force, the consultation duty in section 348(4) of the Charities Act 2011 does not apply in relation to regulations under section 245 of that Act to the extent that they

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contain provision which applies, or is otherwise made in connection with, the new insolvency measures.

- (4) In subsections (2) and (3) “the new insolvency measures” means the provision made by—
- (a) sections 1 to 3 and Schedules 1 to 4 (moratorium);
  - (b) sections 14 and 15 and Schedule 12 (termination clauses in supply contracts).
- (5) For the purposes of this section —
- (a) “regulations that are subject to the affirmative resolution procedure” means regulations that may not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament;
  - (b) “regulations that are subject to the made affirmative procedure” means regulations that—
    - (i) are contained in a statutory instrument that must be laid before Parliament as soon as reasonably practicable after being made, and
    - (ii) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made, unless during that period the instrument is approved by a resolution of each House of Parliament.
- (6) In calculating the period of 40 days mentioned in subsection (5)(b)(ii), no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
  - (b) both Houses of Parliament are adjourned for more than 4 days.
- (7) Where by virtue of this section the Secretary of State makes regulations that are subject to the made affirmative procedure and the regulations cease to have effect because they are not approved within the period mentioned in subsection (5)(b)(ii), the fact that the regulations cease to have effect does not—
- (a) affect anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.

#### **44 Modified procedure for regulations of the Welsh Ministers**

- (1) During the period of six months beginning with the day on which this section comes into force, any relevant provision that may be made by the Welsh Ministers by regulations that are subject to the affirmative resolution procedure may be made by regulations that are subject to the made affirmative procedure.
- (2) In subsection (1) “relevant provision” means—
- (a) provision under section A50(2) of the Insolvency Act 1986 (power to modify moratorium provisions in relation to certain companies);
  - (b) provision under paragraph 21 of Schedule ZA1 to the Insolvency Act 1986 (exclusion of registered social landlords from eligibility under Part A1 of that Act);
  - (c) provision under section 247A of the Charities Act 2011 (regulations about moratoriums for charitable incorporated organisations that are registered social landlords).

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- (3) During the period of six months beginning with the day on which this section comes into force, the consultation duty in section 247A(6) of the Charities Act 2011 does not apply in relation to regulations under section 247A of that Act.
- (4) For the purposes of this section —
  - (a) “regulations that are subject to the affirmative resolution procedure” means regulations that may not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of Senedd Cymru;
  - (b) “regulations that are subject to the made affirmative procedure” means regulations that—
    - (i) are contained in a statutory instrument that must be laid before Senedd Cymru as soon as reasonably practicable after being made, and
    - (ii) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made, unless during that period the instrument is approved by a resolution of Senedd Cymru.
- (5) In calculating the period of 40 days mentioned in subsection (4)(b)(ii), no account is to be taken of any time during which Senedd Cymru is—
  - (a) dissolved, or
  - (b) in recess for more than 4 days.
- (6) Where by virtue of this section the Welsh Ministers make regulations that are subject to the made affirmative procedure and the regulations cease to have effect because they are not approved within the period mentioned in subsection (4)(b)(ii), the fact that the regulations cease to have effect does not—
  - (a) affect anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.

#### **45 Modified procedure for regulations of the Scottish Ministers**

- (1) During the period of six months beginning with the day on which this section comes into force, any relevant provision that may be made by the Scottish Ministers by regulations that are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)) may be made by regulations that are subject to the made affirmative procedure.
- (2) In subsection (1) “relevant provision” means—
  - (a) provision under section A50(3) of the Insolvency Act 1986 (power to modify moratorium provisions in relation to certain companies);
  - (b) provision under paragraph 22 of Schedule ZA1 to the Insolvency Act 1986 (exclusion of registered social landlords from eligibility under Part A1 of that Act).
- (3) For the purposes of this section “regulations that are subject to the made affirmative procedure” means regulations that—
  - (a) must be laid before the Scottish Parliament as soon as reasonably practicable after being made, and
  - (b) cease to have effect at the end of the period of 40 days beginning with the day on which the regulations are made, unless during that period the regulations are approved by a resolution of the Scottish Parliament.

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- (4) In calculating the period of 40 days mentioned in subsection (3)(b), no account is to be taken of any time during which the Scottish Parliament is—
  - (a) dissolved, or
  - (b) in recess for more than 4 days.
- (5) Where by virtue of this section the Scottish Ministers make regulations that are subject to the made affirmative procedure and the regulations cease to have effect because they are not approved within the period mentioned in subsection (3)(b), the fact that the regulations cease to have effect does not—
  - (a) affect anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.
- (6) Section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010 does not apply in relation to regulations that are subject to the made affirmative procedure by virtue of this section.

#### **46 Modified procedure for regulations of Northern Ireland departments**

- (1) During the period of six months beginning with the day on which this section comes into force, any relevant provision that may be made by a Northern Ireland department by regulations that are subject to the affirmative resolution procedure may be made by regulations that are subject to the made affirmative procedure.
- (2) In subsection (1) “relevant provision” means—
  - (a) provision under Article 13HA(1) of the Insolvency (Northern Ireland) Order 1989 (power to modify moratorium provisions in relation to certain companies);
  - (b) provision under Article 13HB(1) of that Order (moratorium: power to make provision in connection with pension schemes).
- (3) For the purposes of this section—
  - (a) “regulations that are subject to the affirmative resolution procedure” means regulations that may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly;
  - (b) “regulations that are subject to the made affirmative procedure” means regulations that—
    - (i) must be laid before the Assembly as soon as reasonably practicable after being made, and
    - (ii) cease to have effect at the end of the period of 40 days beginning with the day on which the regulations are made, unless during that period the regulations are approved by a resolution of the Assembly.
- (4) In calculating the period of 40 days mentioned in subsection (3)(b)(ii), no account is to be taken of any time during which the Assembly is—
  - (a) dissolved,
  - (b) in recess for more than 4 days, or
  - (c) adjourned for more than 6 days.
- (5) Where by virtue of this section a Northern Ireland department makes regulations that are subject to the made affirmative procedure and the regulations cease to have effect because they are not approved within the period mentioned in subsection (3)(b)(ii), the fact that the regulations cease to have effect does not—

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- (a) affect anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.
- (6) In this section “the Assembly” means the Northern Ireland Assembly.

**Changes to legislation:**

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