

SCHEDULES

SCHEDULE 4

MORATORIUMS IN GREAT BRITAIN: TEMPORARY PROVISION

PART 2

MODIFICATIONS TO PRIMARY LEGISLATION

“Eligible” company: additional exclusion

- 5 During the relevant period, a company is not eligible for the purposes of section A3, A4 or A5 of the Insolvency Act 1986 if the company—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on a regulated activity within the meaning of that Act, and
 - (b) is not subject to a requirement imposed under that Act to refrain from holding money for clients.

Relaxation of conditions for obtaining moratorium etc

- 6 (1) For the purposes of obtaining a moratorium under section A3 of the Insolvency Act 1986 during the relevant period—
- (a) section A3 of that Act has effect as if subsection (1)(a) were omitted;
 - (b) section A6(1)(e) of that Act has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”;
 - (c) Schedule ZA1 to that Act has effect as if paragraph 2(1)(b) and (2)(b) were omitted.
- (2) During the relevant period, only an overseas company may obtain a moratorium under section A4 of the Insolvency Act 1986.
- 7 In relation to an application for a moratorium made under section A4 or A5 of the Insolvency Act 1986 during the relevant period—
- (a) section A6(1)(e) of that Act has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”;
 - (b) Schedule ZA1 to that Act has effect as if paragraph 2(1)(b) and (2)(b) were omitted.

Relaxation of conditions for extending moratorium obtained during relevant period

- 8 (1) This paragraph applies in relation to a moratorium that comes into force during the relevant period.

Status: This is the original version (as it was originally enacted).

- (2) For the purposes of extending the moratorium under section A10 or A11 of the Insolvency Act 1986, subsection (1)(d) of that section has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”.
- (3) In relation to an application under section A13 of the Insolvency Act 1986 that the moratorium be extended, subsection (2)(d) of that section has effect as if at the end there were inserted “or would do so if it were not for any worsening of the financial position of the company for reasons relating to coronavirus”.

Monitoring of moratorium obtained during relevant period

- 9 In relation to a moratorium that comes into force during the relevant period, section A35(1) of the Insolvency Act 1986 has effect as if for the words from “it remains likely” to the end there were substituted “—
- (a) it is likely that the moratorium will result in the rescue of the company as a going concern, or
 - (b) that, if one were to disregard any worsening of the financial position of the company for reasons relating to coronavirus, it is likely that the moratorium would result in the rescue of the company as a going concern.”

Termination of moratorium obtained during relevant period

- 10 In relation to a moratorium that comes into force during the relevant period, section A38(1) of the Insolvency Act 1986 has effect as if for paragraph (a) there were substituted—
- “(a) the monitor thinks—
- (i) that the moratorium is not likely to result in the rescue of the company as a going concern, and
 - (ii) that, even if one were to disregard any worsening of the financial position of the company for reasons relating to coronavirus, the moratorium would not be likely to result in the rescue of the company as a going concern,”.

“Coronavirus”

- 11 In the modifications made by this Part of this Schedule “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).