

SCHEDULES

SCHEDULE 8

MORATORIUMS IN NORTHERN IRELAND: 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 Article 13B, 13BA or 13BB of the Insolvency (Northern Ireland) Order 1989 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 Article 13B of the Insolvency (Northern Ireland) Order 1989 during the relevant period—
- (a) Article 13B of that Order has effect as if paragraph (1)(a) were omitted;
 - (b) Article 13BC(1)(e) of that Order 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 Order 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 Article 13BA of the Insolvency (Northern Ireland) Order 1989.
- 7 In relation to an application for a moratorium made under Article 13BA or 13BB of the Insolvency (Northern Ireland) Order 1989 during the relevant period—
- (a) Article 13BC(1)(e) of that Order 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 Order 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Status: This is the original version (as it was originally enacted).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 Article 13CA or 13CB of the Insolvency (Northern Ireland) Order 1989, paragraph (1)(d) of that Article 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 Article 13CD of the Insolvency (Northern Ireland) Order 1989 that the moratorium be extended, paragraph (2)(d) of that Article 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, Article 13EA(1) of the Insolvency (Northern Ireland) Order 1989 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, Article 13ED(1) of the Insolvency (Northern Ireland) Order 1989 has effect as if for sub-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).