

Regulations made by the Secretary of State under section 20(1)(a) and 25(1) of the Corporate Insolvency and Governance Act 2020 (c. 12), laid before Parliament under section 26(2) of that Act for approval by resolution of each House of Parliament within forty days beginning with the day on which the instrument is made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2021 No. 1029

INSOLVENCY

The Corporate Insolvency and Governance
Act 2020 (Coronavirus) (Amendment of
Schedule 10) Regulations 2021 (revoked)^{F1}

Made - - - - *8th September 2021*
Laid before Parliament *10th September 2021*
Coming into force - - *29th September 2021*

^{F1}

F1 Regulations revoked (28.9.2021) by [The Corporate Insolvency and Governance Act 2020 \(Coronavirus\) \(Amendment of Schedule 10\) \(No. 2\) Regulations 2021 \(S.I. 2021/1091\)](#), reg. 2

Citation and commencement

^{F1}**1.**

Amendment of the Corporate Insolvency and Governance Act 2020

^{F2}**2.**

Consequential provision

^{F3}**3.**

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute a new Schedule 10 to the Corporate Insolvency and Governance Act 2020 (c. 12) (“CIGA”).

The Insolvency Act 1986 (c. 45) (“the 1986 Act”) specifies the grounds upon which registered and unregistered companies may be wound-up by the court. One of those grounds is that the company is unable to pay its debts. Section 123 (or, in the case of an unregistered company, sections 222 to 224) of the 1986 Act specifies those cases where a company is deemed to be unable to pay its debts.

As originally enacted, Schedule 10 to CIGA prohibited the winding up of a company where it would otherwise have been deemed unable to pay its debts as a result of an unpaid statutory demand, and restricted the winding up of a company by a creditor in any of the other cases specified in the 1986 Act, where the company’s inability to pay its debts was due to the financial effect of coronavirus.

Regulation 2 substitutes a new Schedule 10 to CIGA. Paragraph 1 of that Schedule provides that a winding-up petition may not be presented by a creditor on the grounds that a company is unable to pay its debts unless certain conditions are met. The first condition is that the debt is for a liquidated amount which has fallen due for payment and does not relate to non-payment of rent under a business tenancy. The second condition is that the creditor has made a formal request to the company seeking proposals for the payment of the debt. The third condition is that the company has not made a proposal that is to the creditor’s satisfaction within 21 days beginning with the day the formal request was delivered. The final condition is that the debt is £10,000 or more, or, where the petition relates to two or more debts, the total amount of all of the debts taken together is £10,000 or more. The court has the power to waive the requirement for creditors to serve a formal request seeking proposals for payment of the debt or to shorten the period within which such proposals are to be submitted.

Sub-paragraphs (4) and (5) of paragraph 1 of the new Schedule 10 set out requirements as to the content and delivery of the formal request to the company seeking proposal for payment of the debt.

Paragraphs 2 and 3 make consequential modifications to the Insolvency (England and Wales) Rules 2016 (S.I. 201/1024) and Rules of Court in Scotland in order to give effect to the Schedule.

Paragraph 4 provides that the new Schedule 10 only applies in respect of winding-up petitions that are presented by a creditor between 1st October 2021 and 31st March 2022. Paragraph 5 provides that the new Schedule 10 has effect as if it were included in Part 4 of the 1986 Act.

Regulation 3 makes a consequential amendment to section 41 of CIGA. That section enables the Secretary of State to extend or curtail the duration of various temporary provisions in CIGA, including Schedule 10 to that Act. As a result of the amendments made by regulation 2 of these Regulations, the power given by section 41 may no longer be exercised in relation to Schedule 10. Regulation 3 therefore amends section 41 to remove the reference to Schedule 10.

An impact assessment has not been produced for this instrument. An explanatory memorandum has been published alongside this instrument at www.legislation.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) Regulations 2021 (revoked).