



The Insolvency
Service

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DEAR INSOLVENCY PRACTITIONER Issue 104 – June 2020

Message from the Insolvency Service

Dear Reader

Attached is a Dear IP special concerning the Corporate Insolvency and Governance Bill.

The Bill introduces a new moratorium which will give a company in financial distress, a 20 business day breathing space from creditor enforcement action which can be extended. The moratorium is intended to be a “light touch procedure” which is overseen by a monitor who must be a licensed insolvency practitioner. The monitor has a number of statutory roles, the most important of which is their requirement to bring the moratorium to an end if rescue of the company is no longer likely or the company is not paying those debts that it needs to pay within the process. The Insolvency Service will be publishing guidance which sets out the principal duties and actions required of the monitor to assist practitioners in their new role.

Draft guidance is attached. Please note this may be subject to further changes but a final version will be published once the bill has completed its passage through Parliament.

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Corporate Governance and Insolvency Bill: Moratorium

21) Corporate Insolvency and Governance Bill: Moratorium

Insolvency practitioners will be aware that the Corporate Insolvency and Governance Bill was introduced to Parliament on the 20 May and is currently proceeding through the House of Lords. The Bill includes a number of measures to support business including the introduction of a new moratorium to give companies breathing space from their creditors whilst they seek a rescue. The new moratorium will be overseen by an insolvency practitioner acting as a monitor although the directors will remain in charge of running the business (and as such it will be a debtor-in-possession process). During a moratorium no legal action can be taken against a company without leave of the court.

In order to assist practitioners undertaking the role of monitor, the Insolvency Service will be publishing guidance as soon as the Bill has completed its passage through Parliament.

Practitioners may find it helpful to have early sight of the proposed guidance document even though it is not finalised. The moratorium provisions will be operational immediately on commencement of the Act, without having to wait for secondary legislation to be passed as one of the schedules to the Bill includes temporary rules for the operation of the moratorium.

We have sought input into the guidance from the Recognised Professional Bodies, R3, HMRC and other stakeholders and we are very grateful for all the helpful feedback and suggestions received to date.

A link to the draft guidance can be found on <https://www.gov.uk/government/publications/insolvency-act-1986-part-a1-moratorium-draft-guidance-for-monitors>

Enquiries regarding this article may be sent to: Policy.Unit@insolvency.gov.uk