



The Insolvency  
Service

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## DEAR INSOLVENCY PRACTITIONER Issue 105 – June 2020

### Message from the Chairman of the Board of The Insolvency Service

Dear colleagues

The Corporate Insolvency and Governance Act 2020 received Royal Assent last night and came into force at midnight.

This Act creates the largest change to our corporate insolvency regime in more than 20 years. It is the result of a huge amount of hard work by staff from the Insolvency Service, working with teams from across Whitehall and with Parliamentary Counsel, to give distressed businesses the breathing space they need at this challenging time to seek professional restructuring advice and also the opportunity to utilise other provisions brought forward in the Act. I want to pass on my most sincere thanks to all of those who have brought this piece of legislation into force. As befits these times, this very detailed legislation was drafted at pace and we have been very grateful for the advice and support from all our stakeholders in the insolvency profession during this process.

One of the key provisions is the introduction of the new role of a "Monitor" to oversee the moratorium period it introduces. This is a role reserved for licenced insolvency practitioners, and so another tool for them to utilise when advising businesses. I know many in the profession have long supported this evolution of our framework and your work using this important new rescue procedure to support companies approaching insolvency will be critical in making the provisions effective, saving jobs and businesses for the overall benefit of our economy. The Insolvency Service has already provided initial guidance to Insolvency Practitioners on the role and responsibilities of the monitor and our staff will be actively engaging with members of the profession in the coming months to ensure all receive the support needed to take on this work.

On a wider point I also want to pay tribute to the many Insolvency Practitioners, and all those who work with them, across the whole of the UK for the proactive response in recent months to these demanding times. I stressed at the beginning of the pandemic the hope that all involved in the profession, both from the private and the public sectors, could come together and put aside professional rivalries and I am of the opinion that has been seen. I know, going forward, that we can expect ever increasing workloads in response to the demands COVID-19 is putting on the businesses we have been called on to support. Our ongoing aim in the Insolvency Service is to continue to deliver economic confidence and at this time I truly believe that the work being undertaken by all of us is clearly demonstrating the value that the insolvency and restructuring profession brings to this country

With best regards

Steve Allinson,  
Chairman, Insolvency Service Board

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## **22) Insolvency and Corporate Governance Act 2020: Moratorium**

The Insolvency and Corporate Governance Act received Royal Assent on 25 June 2020 and commences on 26 June 2020. Following publication of a draft guidance document for monitors, [a final version has now been published on GOV.UK](#).

The moratorium provisions are operational immediately and we hope that practitioners found it helpful preparation to have early sight of the guidance.

### **Companies House notification requirements**

Links to the relevant forms to send Companies House regarding commencement, extension or end of the moratorium are provided for below. A link to Companies House guidance regarding notification requirements can be found [here](#)

#### **List of forms**

<b>MT01</b>	Notice of commencement of moratorium
<b>MT02</b>	Notice of extension of moratorium
<b>MT03</b>	Notice of early end of moratorium
<b>MT04</b>	Notice of end of moratorium by a monitor
<b>MT05</b>	Notice of end of moratorium by a court
<b>MT06</b>	Notice of end of moratorium following disposal of application for extension by the court or following CVA proposal taking effect or being withdrawn
<b>MT07</b>	Court order permitting disposal of property or goods
<b>MT08</b>	Notice of appointment of replacement or additional administrator following court order
<b>MT09</b>	Notice of monitor ceasing to act following court order

### **Notification to HMRC**

HMRC is likely to be a creditor in most cases where a moratorium is sought, and as a result they have set up a specific team to handle such cases. For all notifications and subsequent contact regarding the moratorium, the monitor may notify HMRC using following contact details:

**Tel:** 0300 322 9251

Any written correspondence should be sent to:

Debt Management - EIS C

HM Revenue and Customs

BX9 1SH

**Email:** [eisc.cva@hmrc.gov.uk](mailto:eisc.cva@hmrc.gov.uk)

Enquiries regarding this article may be sent to: [Policy.Unit@insolvency.gov.uk](mailto:Policy.Unit@insolvency.gov.uk)

## **23) Government financial support schemes and insolvency**

Several Government financial support schemes are available to individuals and businesses during the COVID-19 pandemic. This article provides guidance on dealing with those funds on insolvency.

### **Self-Employment Income Support Scheme**

HMRC will pay self-employed individuals whose business is affected by COVID-19 a taxable grant of 80% of their average monthly trading profits, to be paid as a single sum capped at £7,500 for a three-month period (subject to extensions of the scheme).

If these funds were paid before a bankruptcy order, as far as they remain, they are a bankruptcy asset (cash at bank).

If the individual subject to an Individual Voluntary Arrangement (IVA) when this payment is made, it can be used to continue to pay the monthly contributions agreed by creditors. If the 20% reduction in income means that the payments are unsustainable, the supervisor should use their discretion and the IVA protocol COVID-19 guidance to assist the individual where appropriate.

### **Small Business Grant Fund, and Retail, Hospitality and Leisure Grant Fund**

To be eligible for the small business grant a business had to be eligible for Small Business Rate Relief (SBRR) or rural rates relief on 11 March 2020. There is no application process. Grants are made on the basis of information held by the local authority on SBRR. If offered the grant, the company or individual must confirm their eligibility.

To be eligible for the retail, hospitality and leisure grant the business must be based in England, in the retail, hospitality or leisure sector and had a rateable value of under £51,000 on 11 March 2020.

A company or individual is not eligible for these grants if they are subject to liquidation or the business has been dissolved. The guidance which has been published is clear that any individual or business found to be falsifying documents to claim a grant will be prosecuted and the monies will be subject to claw-back.

Where a winding-up order or bankruptcy order is made against a company or individual who has already received grant monies from either of these schemes, the balance of the funds held are an asset (e.g. cash at bank).

If, post-bankruptcy, the bankrupt has received a grant, the monies should be claimed as after acquired property if the bankruptcy is still in force.

### **Business Interruption Loan Scheme and Bounce Back Loan Scheme**

These are commercial bank loans in part guaranteed by the Government. If the loan has been made prior to the date of a bankruptcy or winding-up order, then the bank is a creditor.

Where an individual or company has made an application for a loan prior to insolvency but the funds have not been received, the bank should be advised immediately of the winding-up / bankruptcy order.

If it appears that a person has applied fraudulently for any of the business schemes it is the duty of the insolvency practitioner to consider their reporting obligations under SIP 2.

### **Employers/employees receiving funds on furlough (Coronavirus Job Retention Scheme)**

The Government is making payments to employers to cover 80% of their staff payroll for retained staff (up to a maximum of £2,500 per month for each individual retained). These monies must be passed on to employees or if the employer has already made a payment to the employee, a record should be kept. Any funds not paid over to staff are repayable to HMRC. This may represent a debt in an insolvency or if the funds remain in the hands of the employer they will need to be traced and will be monies recoverable by HMRC. Any unpaid wages at the date of insolvency should be claimed through the Redundancy Payment Service (RPS).

When drafting an IVA proposal for an individual who is on a furlough payment, the practitioner should be mindful of the individual's ability to be able to sustain the contributions being proposed.

Enquiries regarding this article may be sent to:  
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