

Written 26 June 2020

LIMITED COMPANIES and LLP's

How to apply for breathing space to consider a rescue plan for your company, under measures to support companies and other types of business in financial difficulty.

If your business has or is really struggling, you can get “formal” breathing space to consider a rescue plan for your company.

A moratorium gives struggling businesses formal breathing space in which to explore rescue and restructuring options, free from creditor action.

Except in certain circumstances, no insolvency proceedings can be instigated against the company during the moratorium period. It also prevents legal action being taken against a company without permission from the court - with the exception of employment tribunal proceedings, or proceedings between an employer and a worker, which do not require permission of the court to commence or continue.

Directors remain in control of the company and will still need to meet their filing obligations with Companies House. Late filing penalties will still be applied where accounts are filed late.

How to get a moratorium

The directors must file for or apply to court for a moratorium. It will give the company 20 business days to consider rescue options.

The moratorium will be managed by a monitor, who is a licensed insolvency practitioner.

Extending a moratorium

The moratorium can be extended for a further 20 business days without creditor consent, or for a longer period with creditor consent, by filing relevant statements with the court. It can also be extended further on application to the court.

Any extension must be made before the current expiry of the moratorium.

What to send to Companies House

To make sure the company's record is accurate and up to date, any notices must be delivered to Companies House as quickly as possible.

The monitor must deliver notice of the commencement of a moratorium to Companies House.

They also need to receive a notice if:

- / the moratorium is extended
- / the moratorium is terminated early
- / the monitor is replaced, or an additional monitor is appointed
- / the court makes an order giving permission for the disposal of property

The moratorium will expire at the end of the initial 20 business day period or any extended period.

The monitor is not required to deliver a notice stating that the moratorium has ended if it has expired by time.

The monitor must deliver a notice if it has ended for another reason, such as:

- / it has been terminated early by the monitor
- / the company has entered an insolvency procedure

Who it applies to:

A moratorium can be applied for by companies and LLPs registered in England and Wales, Scotland and Northern Ireland.

See: https://www.gov.uk/guidance/applying-for-a-moratorium-under-the-corporate-insolvency-and-governance-act-2020?utm_source=a826c7e8-d43a-42a1-97f3-ad6bc902fbf5&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

If you are in difficulty, please talk to us and we will do our best to help you review all available options.