

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

INSOLVENCY ACT 1986 PART A1 MORATORIUM
(ELIGIBILITY OF PRIVATE REGISTERED
PROVIDERS) REGULATIONS 2020

Monday 20 July 2020

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The Committee consisted of the following Members:

Chair: CLIVE EFFORD

† Baker, Duncan (*North Norfolk*) (Con)
 † Clark, Feryal (*Enfield North*) (Lab)
 † Debbonaire, Thangam (*Bristol West*) (Lab)
 † Docherty, Leo (*Aldershot*) (Con)
 † Drummond, Mrs Flick (*Meon Valley*) (Con)
 † Elmore, Chris (*Ogmore*) (Lab)
 Evans, Chris (*Islwyn*) (Lab/Co-op)
 † Fell, Simon (*Barrow and Furness*) (Con)
 Fovargue, Yvonne (*Makerfield*) (Lab)
 † Grady, Patrick (*Glasgow North*) (SNP)
 † Gullis, Jonathan (*Stoke-on-Trent North*) (Con)

† Hall, Luke (*Parliamentary Under-Secretary of State for Housing, Communities and Local Government*)
 † Hunt, Jane (*Loughborough*) (Con)
 † Mumby-Croft, Holly (*Scunthorpe*) (Con)
 Rees, Christina (*Neath*) (Lab/Co-op)
 † Saxby, Selaine (*North Devon*) (Con)
 † Simmonds, David (*Ruislip, Northwood and Pinner*) (Con)

Laura-Jane Tiley, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Monday 20 July 2020

[CLIVE EFFORD *in the Chair*]

Insolvency Act 1986 Part A1 Moratorium (Eligibility of Private Registered Providers) Regulations 2020

4.30 pm

The Chair: Before we begin, Members may remove their jackets, if they want to. Please stay as socially distanced as you are, if you can. That will be perfect.

The Parliamentary Under-Secretary of State for Housing, Communities and Local Government (Luke Hall): I beg to move,

That the Committee has considered the Insolvency Act 1986 Part A1 Moratorium (Eligibility of Private Registered Providers) Regulations 2020 (S.I. 2020, No. 652).

It is a pleasure to serve under your chairmanship, Mr Efford. Welcome to your first Committee as Chair. I look forward to serving under you today and in the future.

The regulations were laid before this House on 29 June 2020. The Corporate Insolvency and Governance Act 2020 introduced a range of measures, both permanent and temporary, to assist businesses. The Act gives companies the flexibility and breathing space that they need to continue trading during this difficult time.

The regulations relate to the moratorium provisions contained in the 2020 Act. The measure gives struggling businesses a breathing space in which to explore their rescue and restructuring options free from creditor action. During the moratorium, no legal action may be taken against a business without leave of the courts. The measure ensures that businesses that are struggling are given the opportunity to survive.

Private registered providers of social housing already have special arrangements for dealing with financial difficulties. Those arrangements are set out in the Housing and Regeneration Act 2008 and the Housing and Planning Act 2016. The regime includes a 28-day moratorium to allow a provider in difficulty, working with the regulator of social housing, to resolve its problems.

This statutory instrument disapplies the moratorium powers applied under the Corporate Insolvency and Governance Act for private registered providers, given that the separate housing moratorium already exists to support them should they get into financial difficulty. The arrangements we have in place, combined with the economic regulation of the sector by the regulator of social housing, make this new moratorium unnecessary, because specific moratorium proceedings are already operational for this sector.

A private registered provider in financial difficulty would have two potential routes to follow and, in turn, that could lead to two moratoriums operating alongside each other and possibly conflicting with one another. That might undermine the ability of the regulator of social housing to support a private registered provider facing financial difficulty, thereby limiting its ability to protect tenants. We seek to avoid that situation.

The housing association sector benefits from a no loss on default record, meaning that no lender has lost money because of a private registered provider failure. That is important because it allows private registered providers to borrow cheaply to build the homes that we need. Ultimately, that strong financial performance protects tenants, because their homes are not put at risk.

Financial problems are rare, but the housing association sector has changed significantly in recent years. The level of private finance has grown from £48 billion in 2012 to more than £100 billion in 2020. That is why it is vital for us to maintain a clear and robust regime to support private registered providers facing financial difficulties.

The insolvency arrangements that we have in place today reflect extensive engagement with the regulator of social housing, lenders, private registered providers and their representative bodies. The regulations will ensure that those arrangements remain unaffected by the new moratorium provisions.

The regulations extend to Great Britain, but their practical effect is on arrangements for private registered providers registered with the regulator of social housing in England. However, because we also want the exemption to cover stock held in England by private registered providers registered as legal entities in Scotland and Wales, the territorial application is wider. It is worth noting that no such organisation currently exists.

In conclusion, the regulations are important and necessary to maintain arrangements that allow the regulator of social housing effectively to support a private registered provider in financial difficulty. They ensure a clear regulatory framework that applies to a private registered provider in financial difficulty. That will continue to safeguard investment in social housing and to protect tenants. I commend the regulations to the Committee.

4.35 pm

Thangam Debbonaire (Bristol West) (Lab): It is a pleasure to serve under your chairmanship, Mr Efford. This is a first for us both; this is the first time I have been sat here rather than where my hon. Friend the Member for Ogmores is sat. Although I have whipped many a statutory instrument, I am sure that the Minister will be terribly disappointed to hear that I do not intend to disagree with him at all this afternoon. The Opposition have examined the statutory instrument carefully and have consulted colleagues in the social housing sector and in other teams, and we accept that the minor amendments are largely technical in nature and have been implemented to reduce conflict between potentially competing legislation.

As we understand it, the amendments will remove private registered providers of social housing from the Insolvency Act 1986, which would allow them to be covered by existing housing legislation instead. Private registered providers are subject to special rules about insolvency, including provision for a moratorium—I wondered what the plural of moratorium was, and I am still not completely sure—in sections 143A to 159 of the Housing and Regeneration Act 2008. Those provisions were substantially amended by the Housing Planning Act 2016, so this area has received recent legislative attention for private registered providers. From our understanding—I am sure the Minister will correct me if I am wrong—the statutory instrument seeks to ensure that, owing to the recent amendments to the 2016 Act, there is no conflicting legislation. There are lots of double negatives in this argument, aren't there?

The 2008 Act provides a 28-day moratorium for private registered providers, while the amended Corporate Insolvency and Governance Act 2020 provides for 20 days. The instrument makes it clear that private registered providers have 28 days, not 20 days. The Opposition therefore have no immediate concerns or points that we would like to raise with the Minister.

4.37 pm

Luke Hall: I thank the hon. Lady for her comments. She asked only one question, about the plural of moratorium, which I will categorically fail to answer. I welcome her constructive comments in her first SI Committee as shadow Minister rather than as a Whip.

The occasions on which this legislation will be necessary are rare. The disapplication of the moratorium that was introduced by the Corporate Insolvency and Governance Act 2020 means that there is only one moratorium available to private registered providers, avoiding the potential for two moratoriums being in play together. The moratorium from housing legislation ensures that the regulator has the tools it needs to maintain lender confidence as far as possible and to protect tenants should insolvency occur.

Question put and agreed to.

4.38 pm

Committee rose.

