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European Monitoring Centre on Change

Ireland: Rescue procedures in insolvency

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Ireland

Phase:

Management

Type:

Rescue procedures in insolvency

Last modified: 10 December, 2021

Native name: Companies act 2014

English name: Companies act 2014

Article

508-558

Description

A company may enter examinership once its director(s) can prove that the company can no longer pay its debts. Successful applicants then have 100 days during which they are protected from creditors. This gives time for the company to try to obtain new forms of funding, or to make agreements with their creditors about alternative forms of repayment or new repayment schemes, which are not as hard on the company. Examinership differs from receivership in that the company itself applies for such restructuring measures. Under receivership protocol, the creditors apply to have a receiver appointed, which can lead to liquidation and redundancies as its primary focus is to recoup money for the creditors.

A temporary arrangement was introduced in 2020 as a result of the COVID-19 pandemic, which permits an extension of time from 100 days to 150 days. This will remain in effect at least until 31 December 2021.

Comments

Examinership is often a successful means by which to restructure a company, without having to resort to large-scale job losses. It has worked for several significant employers, particularly in the retail industry, such as B&Q and Debenhams. In 2017, approximately 1,000 jobs were saved through companies availing of examinership. Jobs are protected during both the examinership and receivership process: a 2017 Court of Appeal judgement in *Brennan v Irish Pride Bakeries* [2017 IECA 107] reiterated that employment contracts cannot be repudiated on account of the company being in receivership, i.e. a receiver cannot do what an employer cannot do in terms of adhering to an employment contract.

The most recent annual report of the Courts Service showed that 2019 had slightly more examiner cases at the High Court than in the previous year, which indicates it is still being utilised as a means of negotiating onerous tenancy arrangements.

With the onset of the 2020 COVID-19 pandemic, the government legislated to lengthen the duration of examinership to try and boost its chance of success. This will be in place until 31 December 2021.

Cost covered by

Not applicable

Involved actors other than national government

Other

Involvement others

Creditors

Thresholds

No, applicable in all circumstances

Sources

-  [Examinership - company registration office](#)
-  [Companies act 2014](#)
-  [Examinership index](#)
-  [Court of Appeal 2017 judgment in Conor Brennan v Irish Pride](#)
-  [Courts service -annual report 2019](#)
-  [Government extension to Companies \(miscellaneous provisions\) \(COVID-19\) act 2020](#)

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