



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

#### WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

### CHAPTER VII

#### LIQUIDATORS

##### *Preliminary*

#### **163 Style and title of liquidators.**

The liquidator of a company shall be described—

- (a) where a person other than the official receiver is liquidator, by the style of “the liquidator” of the particular company, or
- (b) where the official receiver is liquidator, by the style of “the official receiver and liquidator” of the particular company;

and in neither case shall he be described by an individual name.

#### **Modifications etc. (not altering text)**

C1 S. 163 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), [Sch. 2](#)

#### **164 Corrupt inducement affecting appointment.**

A person who gives, or agrees or offers to give, to any member or creditor of a company any valuable consideration with a view to securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the company’s liquidator is liable to a fine.

*Status: Point in time view as at 27/09/1999.*

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**Modifications etc. (not altering text)**

**C2** S. 164 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\)](#), [Sch. 2](#)

*Liquidator's powers and duties*

**165 Voluntary winding up.**

- (1) This section has effect where a company is being wound up voluntarily, but subject to section 166 below in the case of a creditor's voluntary winding up.
- (2) The liquidator may—
  - (a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and
  - (b) in the case of a creditor's voluntary winding up, with the sanction of the court or the liquidation committee (or, if there is no such committee, a meeting of the company's creditors),

exercise any of the powers specified in Part I of Schedule 4 to this Act (payment of debts, compromise of claims, etc.).
- (3) The liquidator may, without sanction exercise either of the powers specified in Part II of that Schedule (institution and defence of proceedings; carrying on the business of the company) and any of the general powers specified in Part III of that Schedule.
- (4) The liquidator may—
  - (a) exercise the court's power of settling a list of contributories (which list is prima facie evidence of the liability of the persons named in it to be contributories),
  - (b) exercise the court's power of making calls,
  - (c) summon general meetings of the company for the purpose of obtaining its sanction by special or extraordinary resolution or for any other purpose he may think fit.
- (5) The liquidator shall pay the company's debts and adjust the rights of the contributories among themselves.
- (6) Where the liquidator in exercise of the powers conferred on him by this Act disposes of any property of the company to a person who is connected with the company (within the meaning of section 249 in Part VII), he shall, if there is for the time being a liquidation committee, give notice to the committee of that exercise of his powers.

**Modifications etc. (not altering text)**

**C3** S. 165 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\)](#), [Sch. 2](#)

**C4** S. 165 modified (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(2\)](#), [Sch. 3](#)

**166 Creditors' voluntary winding up.**

- (1) This section applies where, in the case of a creditors' voluntary winding up, a liquidator has been nominated by the company.

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- (2) The powers conferred on the liquidator by section 165 shall not be exercised, except with the sanction of the court, during the period before the holding of the creditors' meeting under section 98 in Chapter IV.
- (3) Subsection (2) does not apply in relation to the power of the liquidator—
  - (a) to take into his custody or under his control all the property to which the company is or appears to be entitled;
  - (b) to dispose of perishable goods and other goods the value of which is likely to diminish if they are not immediately disposed of; and
  - (c) to do all such other things as may be necessary for the protection of the company's assets.
- (4) The liquidator shall attend the creditors' meeting held under section 98 and shall report to the meeting on any exercise by him of his powers (whether or not under this section or under section 112 or 165).
- (5) If default is made—
  - (a) by the company in complying with subsection (1) or (2) of section 98, or
  - (b) by the directors in complying with subsection (1) or (2) of section 99,the liquidator shall, within 7 days of the relevant day, apply to the court for directions as to the manner in which that default is to be remedied.
- (6) "The relevant day" means the day on which the liquidator was nominated by the company or the day on which he first became aware of the default, whichever is the later.
- (7) If the liquidator without reasonable excuse fails to comply with this section, he is liable to a fine.

**Modifications etc. (not altering text)**

- C5 S. 166 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**  
C6 S. 166(5) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**

**167 Winding up by the court.**

- (1) Where a company is being wound up by the court, the liquidator may—
  - (a) with the sanction of the court or the liquidation committee, exercise any of the powers specified in Parts I and II of Schedule 4 to this Act (payment of debts; compromise of claims, etc., institution and defence of proceedings; carrying on of the business of the company), and
  - (b) with or without that sanction, exercise any of the general powers specified in Part III of that Schedule.
- (2) Where the liquidator (not being the official receiver), in exercise of the powers conferred on him by this Act—
  - (a) disposes of any property of the company to a person who is connected with the company (within the meaning of section 249 in Part VII) or
  - (b) employs a solicitor to assist him in the carrying out of his functions,

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he shall, if there is for the time being a liquidation committee, give notice to the committee of that exercise of his powers.

- (3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section is subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

**Modifications etc. (not altering text)**

- C7** S. 167 excluded (1.12.2001) by 2000 c. 8, s. 376(12); S.I. 2001/3538, art. 2(1)  
 S. 167 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2
- C8** S. 167 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 103, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 2

**168 Supplementary powers (England and Wales).**

- (1) This section applies in the case of a company which is being wound up by the court in England and Wales.
- (2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes; and it is his duty to summon meetings at such times as the creditors or contributories by resolution (either at the meeting appointing the liquidator or otherwise) may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories (as the case may be).
- (3) The liquidator may apply to the court (in the prescribed manner) for directions in relation to any particular matter arising in the winding up.
- (4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the assets and their distribution among the creditors.
- (5) If any person is aggrieved by an act or decision of the liquidator, that person may apply to the court; and the court may confirm, reverse or modify the act or decision complained of, and make such order in the case as it thinks just.
- [<sup>F1</sup>(5A) Where at any time after a winding-up petition has been presented to the court against any person (including an insolvent partnership or other body which may be wound up under Part V of the Act as an unregistered company), whether by virtue of the provisions of the Insolvent Partnerships Order 1994 <sup>F2</sup> or not, the attention of the court is drawn to the fact that the person in question is a member of an insolvent partnership, the court may make an order as to the future conduct of the insolvency proceedings and any such order may apply any provisions of that Order with any necessary modifications.
- (5B) Any order or directions under subsection (5A) may be made or given on the application of the official receiver, any responsible insolvency practitioner, the trustee of the partnership or any other interested person and may include provisions as to the administration of the joint estate of the partnership, and in particular how it and the separate estate of any member are to be administered.
- (5C) Where the court makes an order under section 72(1)(a) of the Financial Services Act 1986 <sup>F3</sup> or section 92(1)(a) of the Banking Act 1987 <sup>F4</sup> for the winding up of an insolvent partnership, the court may make an order as to the future conduct of the

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winding-up proceedings, and any such order may apply any provisions of the Insolvent Partnerships Order 1994 with any necessary modifications.]

#### Textual Amendments

- F1 S. 168(5A)(5B)(5C) inserted (1.12.1994) by S.I. 1994/2421, art. 14(1)
- F2 S.I. 1994/2421.
- F3 1986 c.60.
- F4 1987 c.22.

#### Modifications etc. (not altering text)

- C9 S. 168(1)-(3)(5) applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 8(3)(9), Sch. 4 Pt. II para. 20

### 169 Supplementary powers (Scotland).

- (1) In the case of a winding up in Scotland, the court may provide by order that the liquidator may, where there is no liquidation committee, exercise any of the following powers, namely—
  - (a) to bring or defend any action or other legal proceeding in the name and on behalf of the company, or
  - (b) to carry on the business of the company so far as may be necessary for its beneficial winding up,without the sanction or intervention of the court.
- (2) In a winding up by the court in Scotland, the liquidator has (subject to the rules) the same powers as a trustee on a bankrupt estate.

#### Modifications etc. (not altering text)

- C10 S. 169 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2
- C11 S. 169 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 103, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 2

### 170 Enforcement of liquidator's duty to make returns, etc.

- (1) If a liquidator who has made any default—
  - (a) in filing, delivering or making any return, account or other document, or
  - (b) in giving any notice which he is by law required to file, deliver, make or give,fails to make good the default within 14 days after the service on him of a notice requiring him to do so, the court has the following powers.
- (2) On an application made by any creditor or contributory of the company, or by the registrar of companies, the court may make an order directing the liquidator to make good the default within such time as may be specified in the order.
- (3) The court's order may provide that all costs of and incidental to the application shall be borne by the liquidator.

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- (4) Nothing in this section prejudices the operation of any enactment imposing penalties on a liquidator in respect of any such default as is mentioned above.

**Modifications etc. (not altering text)**

- C12** S. 170 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C13** S. 170 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1), ss. 103, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 2**
- C14** S. 170(2) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8, para. 23(1)-(3)** (with s. 126(3)-(11)); S.I. 1998/3178, **arts. 2, 3**

*Removal; vacation of office*

**171 Removal, etc. (voluntary winding up).**

- (1) This section applies with respect to the removal from office and vacation of office of the liquidator of a company which is being wound up voluntarily.
- (2) Subject to the next subsection, the liquidator may be removed from office only by an order of the court or—
- (a) in the case of a members' voluntary winding up, by a general meeting of the company summoned specially for that purpose, or
  - (b) in the case of a creditors' voluntary winding up, by a general meeting of the company's creditors summoned specially for that purpose in accordance with the rules.
- (3) Where the liquidator was appointed by the court under section 108 in Chapter V, a meeting such as is mentioned in subsection (2) above shall be summoned for the purpose of replacing him only if he thinks fit or the court so directs or the meeting is requested, in accordance with the rules—
- (a) in the case of a members' voluntary winding up, by members representing not less than one-half of the total voting rights of all the members having at the date of the request a right to vote at the meeting, or
  - (b) in the case of a creditors' voluntary winding up, by not less than one-half, in value, of the company's creditors.
- (4) A liquidator shall vacate office if he ceases to be a person who is qualified to act as an insolvency practitioner in relation to the company.
- (5) A liquidator may, in the prescribed circumstances, resign his office by giving notice of his resignation to the registrar of companies.
- (6) Where—
- (a) in the case of a members' voluntary winding up, a final meeting of the company has been held under section 94 in Chapter III, or
  - (b) in the case of a creditors' voluntary winding up, final meetings of the company and of the creditors have been held under section 106 in Chapter IV,
- the liquidator whose report was considered at the meeting or meetings shall vacate office as soon as he has complied with subsection (3) of that section and has given notice to the registrar of companies that the meeting or meetings have been held and of the decisions (if any) of the meeting or meetings.

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**Modifications etc. (not altering text)**

- C15** S. 171 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C16** S. 171 modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**
- C17** S. 171(5)(6) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8**, para. 23(4)(5) (with s. 126(3)-(11)); S.I. 1998/3178, **arts. 2, 3**

**172 Removal, etc. (winding up by the court).**

- (1) This section applies with respect to the removal from office and vacation of office of the liquidator of a company which is being wound up by the court, or of a provisional liquidator.
- (2) Subject as follows, the liquidator may be removed from office only by an order of the court or by a general meeting of the company's creditors summoned specially for that purpose in accordance with the rules; and a provisional liquidator may be removed from office only by an order of the court.
- (3) Where—
- (a) the official receiver is liquidator otherwise than in succession under section 136(3) to a person who held office as a result of a nomination by a meeting of the company's creditors or contributories, or
- (b) the liquidator was appointed by the court otherwise than under section 139(4)(a) or 140(1), or was appointed by the Secretary of State,
- a general meeting of the company's creditors shall be summoned for the purpose of replacing him only if he thinks fit, or the court so directs, or the meeting is requested, in accordance with the rules, by not less than one-quarter, in value, of the creditors.
- (4) If appointed by the Secretary of State, the liquidator may be removed from office by a direction of the Secretary of State.
- (5) A liquidator or provisional liquidator, not being the official receiver, shall vacate office if he ceases to be a person who is qualified to act as an insolvency practitioner in relation to the company.
- (6) A liquidator may, in the prescribed circumstances, resign his office by giving notice of his resignation to the court.
- (7) Where an order is made under section 204 (early dissolution in Scotland) for the dissolution of the company, the liquidator shall vacate office when the dissolution of the company takes effect in accordance with that section.
- (8) Where a final meeting has been held under section 146 (liquidator's report on completion of winding up), the liquidator whose report was considered at the meeting shall vacate office as soon as he has given notice to the court and the registrar of companies that the meeting has been held and of the decisions (if any) of the meeting.

**Modifications etc. (not altering text)**

- C18** S. 172 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 8(3)(9), **Sch. 4 Pt. II para. 21**  
S. 172 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C19** S. 172 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1)**, **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, **Sch. para. 2**

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- C20** S. 172(8) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8**, para. 23(2)(3) (with s. 126(3)-(11)); S.I. 1998/3178, **arts. 2, 3**  
 S. 172(8) amended (1.12.2001) by S.I. 2001/1228, **arts. 1(2)(c)(3)**, 32(1); S.I. 2001/3538, **art. 2(1)**

### *Release of liquidator*

#### **173 Release (voluntary winding up).**

- (1) This section applies with respect to the release of the liquidator of a company which is being wound up voluntarily.
- (2) A person who has ceased to be a liquidator shall have his release with effect from the following time, that is to say—
  - (a) in the case of a person who has been removed from office by a general meeting of the company or by a general meeting of the company’s creditors that has not resolved against his release or who has died, the time at which notice is given to the registrar of companies in accordance with the rules that that person has ceased to hold office;
  - (b) in the case of a person who has been removed from office by a general meeting of the company’s creditors that has resolved against his release, or by the court, or who has vacated office under section 171(4) above, such time as the Secretary of State may, on the application of that person, determine;
  - (c) in the case of a person who has resigned, such time as may be prescribed;
  - (d) in the case of a person who has vacated office under subsection (6)(a) of section 171, the time at which he vacated office;
  - (e) in the case of a person who has vacated office under subsection (6)(b) of that section—
    - (i) if the final meeting of the creditors referred to in that subsection has resolved against that person’s release, such time as the Secretary of State may, on an application by that person, determine, and
    - (ii) if that meeting has not resolved against that person’s release, the time at which he vacated office.
- (3) In the application of subsection (2) to the winding up of a company registered in Scotland, the references to a determination by the Secretary of State as to the time from which a person who has ceased to be liquidator shall have his release are to be read as references to such a determination by the Accountant of Court.
- (4) Where a liquidator has his release under subsection (2), he is, with effect from the time specified in that subsection, discharged from all liability both in respect of acts or omissions of his in the winding up and otherwise in relation to his conduct as liquidator.

But nothing in this section prevents the exercise, in relation to a person who has had his release under subsection (2), of the court’s powers under section 212 of this Act (summary remedy against delinquent directors, liquidators, etc.).

#### **Modifications etc. (not altering text)**

- C21** S. 173(2) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**  
 S. 173 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**



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## **174 Release (winding up by the court).**

- (1) This section applies with respect to the release of the liquidator of a company which is being wound up by the court, or of a provisional liquidator.
- (2) Where the official receiver has ceased to be liquidator and a person becomes liquidator in his stead, the official receiver has his release with effect from the following time, that is to say—
  - (a) in a case where that person was nominated by a general meeting of creditors or contributories, or was appointed by the Secretary of State, the time at which the official receiver gives notice to the court that he has been replaced;
  - (b) in a case where that person is appointed by the court, such time as the court may determine.
- (3) If the official receiver while he is a liquidator gives notice to the Secretary of State that the winding up is for practical purposes complete, he has his release with effect from such time as the Secretary of State may determine.
- (4) A person other than the official receiver who has ceased to be a liquidator has his release with effect from the following time, that is to say—
  - (a) in the case of a person who has been removed from office by a general meeting of creditors that has not resolved against his release or who has died, the time at which notice is given to the court in accordance with the rules that that person has ceased to hold office;
  - (b) in the case of a person who has been removed from office by a general meeting of creditors that has resolved against his release, or by the court or the Secretary of State, or who has vacated office under section 172(5) or (7), such time as the Secretary of State may, on an application by that person, determine;
  - (c) in the case of a person who has resigned, such time as may be prescribed;
  - (d) in the case of a person who has vacated office under section 172(8)—
    - (i) if the final meeting referred to in that subsection has resolved against that person's release, such time as the Secretary of State may, on an application by that person, determine, and
    - (ii) if that meeting has not so resolved, the time at which that person vacated office.
- (5) A person who has ceased to hold office as a provisional liquidator has his release with effect from such time as the court may, on an application by him, determine.
- (6) Where the official receiver or a liquidator or provisional liquidator has his release under this section, he is, with effect from the time specified in the preceding provisions of this section, discharged from all liability both in respect of acts or omissions of his in the winding up and otherwise in relation to his conduct as liquidator or provisional liquidator.

But nothing in this section prevents the exercise, in relation to a person who has had his release under this section, of the court's powers under section 212 (summary remedy against delinquent directors, liquidators, etc.).

- (7) In the application of this section to a case where the order for winding up has been made by the court in Scotland, the references to a determination by the Secretary of State as to the time from which a person who has ceased to be liquidator has his release are to such a determination by the Accountant of Court.

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**Modifications etc. (not altering text)**

- C22** S. 174 applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), art. 8(3)(9), **Sch. 4 Pt. II para. 22**  
S. 174 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), **Sch. 2**

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