



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART VI

#### MISCELLANEOUS PROVISIONS APPLYING TO COMPANIES WHICH ARE INSOLVENT OR IN LIQUIDATION

##### *Management by administrators, liquidators, etc.*

#### **233 Supplies of gas, water, electricity, etc.**

- (1) This section applies in the case of a company where—
- [<sup>F1</sup>(a) the company enters administration,]
  - (b) an administrative receiver is appointed, or
  - <sup>F2</sup>(ba) .....
  - (c) a voluntary arrangement [<sup>F3</sup>approved under Part I], has taken effect, or
  - (d) the company goes into liquidation, or
  - (e) a provisional liquidator is appointed;

and “the office-holder” means the administrator, the administrative receiver, <sup>F4</sup>... the supervisor of the voluntary arrangement, the liquidator or the provisional liquidator, as the case may be.

- (2) If a request is made by or with the concurrence of the office-holder for the giving, after the effective date, of any of the supplies mentioned in the next subsection, the supplier—
- (a) may make it a condition of the giving of the supply that the office-holder personally guarantees the payment of any charges in respect of the supply, but
  - (b) shall not make it a condition of the giving of the supply, or do anything which has the effect of making it a condition of the giving of the supply, that any outstanding charges in respect of a supply given to the company before the effective date are paid.
- (3) The supplies referred to in subsection (2) are—

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- [<sup>F5</sup>(a) a supply of gas by a gas supplier within the meaning of Part I of the Gas Act 1986;]
  - [<sup>F6</sup>(aa) a supply of gas by a person within paragraph 1 of Schedule 2A to the Gas Act 1986 (supply by landlords etc.);]
  - [<sup>F7</sup>(b) a supply of electricity by an electricity supplier within the meaning of Part I of the Electricity Act 1989;]
  - [<sup>F8</sup>(ba) a supply of electricity by a class of person within Class A (small suppliers) or Class B (resale) of Schedule 4 to the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 (S.I. 2001/3270);]
  - (c) a supply of water by [<sup>F9</sup>a water undertaker] or, in Scotland, [<sup>F10</sup>Scottish Water],
  - [<sup>F11</sup>(ca) a supply of water by a water supply licensee within the meaning of the Water Industry Act 1991;
  - (cb) a supply of water by a water services provider within the meaning of the Water Services etc. (Scotland) Act 2005;
  - (cc) a supply of water by a person who has an interest in the premises to which the supply is given;]
  - [<sup>F12</sup>(d) a supply of communications services by a provider of a public electronic communications service.]
  - [<sup>F13</sup>(e) a supply of communications services by a person who carries on a business which includes giving such supplies;
  - (f) a supply of goods or services mentioned in subsection (3A) by a person who carries on a business which includes giving such supplies, where the supply is for the purpose of enabling or facilitating anything to be done by electronic means.]
- [<sup>F14</sup>(3A) The goods and services referred to in subsection (3)(f) are—
- (a) point of sale terminals;
  - (b) computer hardware and software;
  - (c) information, advice and technical assistance in connection with the use of information technology;
  - (d) data storage and processing;
  - (e) website hosting.]
- (4) “The effective date” for the purposes of this section is whichever is applicable of the following dates—
- [<sup>F15</sup>(a) the date on which the company entered administration]
  - (b) the date on which the administrative receiver was appointed (or, if he was appointed in succession to another administrative receiver, the date on which the first of his predecessors was appointed),
  - [<sup>F16</sup>(ba) . . . . .
  - (c) the date on which the voluntary arrangement [<sup>F17</sup>took effect],
  - (d) the date on which the company went into liquidation,
  - (e) the date on which the provisional liquidator was appointed.
- (5) The following applies to expressions used in subsection (3)—
- (a) <sup>F18</sup> . . . . .
  - (b) <sup>F19</sup> . . . . .
  - (c) <sup>F20</sup> . . . . .

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- [<sup>F21</sup>(d) “communications services” do not include electronic communications services to the extent that they are used to broadcast or otherwise transmit programme services (within the meaning of the Communications Act 2003).]

#### Textual Amendments

- F1** S. 233(1)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 22(a) (with s. 249(1)-(3)(6)); S.I. 2003/2093, **art. 2**, Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F2** S. 233(1)(ba) omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 15(2)(a)** (with ss. 2(2), 5(2))
- F3** Words in s. 233(1)(c) inserted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 8(2)(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)
- F4** Words in s. 233(1) omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 15(2)(b)** (with ss. 2(2), 5(2))
- F5** S. 233(3)(a) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 14(1)**; S.I. 1996/218, **art. 2**
- F6** S. 233(3)(aa) inserted (1.10.2015) by The Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015/989), arts. 1(1), **2(2)(a)**
- F7** S. 233(3)(b) substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 para. 47(2)(a)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to arts. 3-20)
- F8** S. 233(3)(ba) inserted (1.10.2015) by The Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015/989), **arts. 1(1), 2(2)(b)**
- F9** Words substituted by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 25 para. 78(1)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F10** Words in s. 233(3)(c) substituted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 2, **Sch. Pt. 1 para. 14(a)**
- F11** S. 233(3)(ca)-(cc) inserted (1.10.2015) by The Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015/989), arts. 1(1), **2(2)(c)** (with art. 2(4))
- F12** S. 233(3)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 82(a)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1) (with art. 3(2) (as amended (8.12.2003) by 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F13** S. 233(3)(e)(f) inserted (1.10.2015) by The Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015/989), arts. 1(1), **2(2)(d)**
- F14** S. 233(3A) inserted (1.10.2015) by The Insolvency (Protection of Essential Supplies) Order 2015 (S.I. 2015/989), arts. 1(1), **2(3)**
- F15** S. 233(4)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 22(b) (with s. 249(1)-(3)(6)); S.I. 2003/2093, **art. 2**, Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F16** S. 233(4)(ba) omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 15(3)** (with ss. 2(2), 5(2))
- F17** Words in s. 233(4)(c) substituted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 8(3)(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)
- F18** S. 233(5)(a) repealed (1.3.1996) by 1995 c. 45, ss. 16(1), 17(5), Sch. 4 para. 14(2), **Sch. 6**; S.I. 1996/218, **art. 2**
- F19** S. 233(5)(b) repealed (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 para. 47(2)(b), **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to arts. 3-20)
- F20** S. 233(5)(c) repealed (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 2, **Sch. Pt. 1 para. 14(b)**
- F21** S. 233(5)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 82(b)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1) (with art. 3(2) (as amended (8.12.2003) by 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

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

- C1** Pt. 6 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), reg. 2, [Sch. 1 para. 3](#) (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), 4)
- C2** S. 233 applied (1.12.1994) by [S.I. 1994/2421](#), [art. 4\(3\)\(a\)](#)  
S. 233 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), [Sch. 2](#)
- C3** S. 233 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](#)
- C4** S. 233 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 145](#), 263(1)(2) (with s. 247); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch. para. 3](#)
- C5** S. 233: power to amend conferred (25.4.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), [ss. 92\(1\)](#), 103(1)(g)
- C6** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 4](#); [S.I. 2018/1161](#), reg. 3(d)
- C7** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 3](#); [S.I. 2018/1161](#), reg. 3(c)
- C8** S. 233 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), regs. 2, [37](#) (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), 4, [11](#))
- C9** S. 233(1)(4) modified (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(2), [Sch. 3](#) (which reference to s. 233 in Sch. 3 of the modifying S.S.I. was omitted (1.10.2009) by virtue of [S.S.I. 2009/310](#), reg. 4, [Sch. 2 para. 1\(b\)](#))
- C10** S. 233(1)(4) modified (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(2), [Sch. 3](#)

#### **[<sup>F22</sup>233A] Further protection of essential supplies**

- (1) An insolvency-related term of a contract for the supply of essential goods or services to a company ceases to have effect if—
  - (a) the company enters administration, or
  - (b) a voluntary arrangement approved under Part 1 takes effect in relation to the company.
- (2) An insolvency-related term of a contract does not cease to have effect by virtue of subsection (1) to the extent that—
  - (a) it provides for the contract or the supply to terminate, or any other thing to take place, because the company becomes subject to an insolvency procedure other than administration or a voluntary arrangement;
  - (b) it entitles a supplier to terminate the contract or the supply, or do any other thing, because the company becomes subject to an insolvency procedure other than administration or a voluntary arrangement; or
  - (c) it entitles a supplier to terminate the contract or the supply because of an event that occurs, or may occur, after the company enters administration or the voluntary arrangement takes effect.
- (3) Where an insolvency-related term of a contract ceases to have effect under this section the supplier may—
  - (a) terminate the contract, if the condition in subsection (4) is met;
  - (b) terminate the supply, if the condition in subsection (5) is met.
- (4) The condition in this subsection is that—
  - (a) the insolvency office-holder consents to the termination of the contract,

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- (b) the court grants permission for the termination of the contract, or
- (c) any charges in respect of the supply that are incurred after the company entered administration or the voluntary arrangement took effect are not paid within the period of 28 days beginning with the day on which payment is due.

The court may grant permission under paragraph (b) only if satisfied that the continuation of the contract would cause the supplier hardship.

- (5) The condition in this subsection is that—
  - (a) the supplier gives written notice to the insolvency office-holder that the supply will be terminated unless the office-holder personally guarantees the payment of any charges in respect of the continuation of the supply after the company entered administration or the voluntary arrangement took effect, and
  - (b) the insolvency office-holder does not give that guarantee within the period of 14 days beginning with the day the notice is received.
- (6) For the purposes of securing that the interests of suppliers are protected, where—
  - (a) an insolvency-related term of a contract (the “original term”) ceases to have effect by virtue of subsection (1), and
  - (b) the company subsequently enters administration, or a voluntary arrangement subsequently has effect in relation to it,the contract is treated for the purposes of subsections (1) to (5) as if, immediately before the subsequent administration is entered into or the subsequent voluntary arrangement takes effect, it included an insolvency-related term identical to the original term.
- (7) A contract for the supply of essential goods or services is a contract for a supply mentioned in section 233(3).
- (8) An insolvency-related term of a contract for the supply of essential goods or services to a company is a provision of the contract under which—
  - (a) the contract or the supply would terminate, or any other thing would take place, because the company enters administration or the voluntary arrangement takes effect,
  - (b) the supplier would be entitled to terminate the contract or the supply, or to do any other thing, because the company enters administration or the voluntary arrangement takes effect, or
  - (c) the supplier would be entitled to terminate the contract or the supply because of an event that occurred before the company enters administration or the voluntary arrangement takes effect.
- (9) In this section “insolvency office-holder” means—
  - (a) in a case where a company enters administration, the administrator;
  - (b) in a case where a voluntary arrangement under Part 1 takes effect in relation to a company, the supervisor of the voluntary arrangement.
- (10) Subsection (1) does not have effect in relation to a contract entered into before 1st October 2015.]

#### Textual Amendments

**F22** S. 233A inserted (1.10.2015) by [The Insolvency \(Protection of Essential Supplies\) Order 2015 \(S.I. 2015/989\)](#), arts. 1(1), 4

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

- C6** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017](#) (c. 19), s. 47(2), [Sch. 4](#); S.I. 2018/1161, reg. 3(d)
- C7** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017](#) (c. 19), s. 47(2), [Sch. 3](#); S.I. 2018/1161, reg. 3(c)
- C11** Pt. 6 applied (with modifications) (S.) by S.S.I. 2001/128, reg. 4, Schs. 2, 3 (as amended (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), s. 49(1), [Sch. 12 para. 7](#) (with ss. 2(2), 5(2), 14(4)))
- C12** Pt. 6 modified (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), [ss. 12, 15, 49\(1\)](#) (with ss. 2(2), 5(2))
- C13** S. 233A applied by S.I. 1994/2421, [art. 4\(3\)\(a\)](#) (as amended (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), s. 49(1), [Sch. 12 para. 5](#) (with ss. 2(2), 5(2), 14(4)))
- C14** S. 233A applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021](#) (S.I. 2021/716), regs. 2, 37 (with reg. 5) (as amended (4.1.2024) by S.I. 2023/1399, regs. 1(2), 4, 11)

**[<sup>F23</sup>233B] Protection of supplies of goods and services**

- (1) This section applies where a company becomes subject to a relevant insolvency procedure.
- (2) A company becomes subject to a relevant insolvency procedure for the purposes of this section where—
  - (a) a moratorium under Part A1 comes into force for the company,
  - (b) the company enters administration,
  - (c) an administrative receiver of the company is appointed (otherwise than in succession to another administrative receiver),
  - (d) a voluntary arrangement approved under Part 1 takes effect in relation to the company,
  - (e) the company goes into liquidation,
  - (f) a provisional liquidator of the company is appointed (otherwise than in succession to another provisional liquidator), or
  - (g) a court order is made under section 901C(1) of the Companies Act 2006 in relation to the company (order summoning meeting relating to compromise or arrangement).
- (3) A provision of a contract for the supply of goods or services to the company ceases to have effect when the company becomes subject to the relevant insolvency procedure if and to the extent that, under the provision—
  - (a) the contract or the supply would terminate, or any other thing would take place, because the company becomes subject to the relevant insolvency procedure, or
  - (b) the supplier would be entitled to terminate the contract or the supply, or to do any other thing, because the company becomes subject to the relevant insolvency procedure.
- (4) Where—
  - (a) under a provision of a contract for the supply of goods or services to the company the supplier is entitled to terminate the contract or the supply because of an event occurring before the start of the insolvency period, and
  - (b) the entitlement arises before the start of that period,

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the entitlement may not be exercised during that period.

- (5) Where a provision of a contract ceases to have effect under subsection (3) or an entitlement under a provision of a contract is not exercisable under subsection (4), the supplier may terminate the contract if—
- (a) in a case where the company has become subject to a relevant insolvency procedure as specified in subsection (2)(b), (c), (e) or (f), the office-holder consents to the termination of the contract,
  - (b) in any other case, the company consents to the termination of the contract, or
  - (c) the court is satisfied that the continuation of the contract would cause the supplier hardship and grants permission for the termination of the contract.
- (6) Where a provision of a contract ceases to have effect under subsection (3) and the company becomes subject to a further relevant insolvency procedure, the supplier may terminate the contract in accordance with subsection (5)(a) to (c).
- (7) The supplier shall not make it a condition of any supply of goods and services after the time when the company becomes subject to the relevant insolvency procedure, or do anything which has the effect of making it a condition of such a supply, that any outstanding charges in respect of a supply made to the company before that time are paid.
- (8) In this section “the insolvency period”, in relation to a relevant insolvency procedure, means the period beginning when the company becomes subject to the relevant insolvency procedure and ending—
- (a) in the case of a moratorium under Part A1, when the moratorium comes to an end,
  - (b) in the case of the company entering administration, when the appointment of the administrator ceases to have effect under—
    - (i) paragraphs 76 to 84 of Schedule B1, or
    - (ii) an order under section 901F of the Companies Act 2006,
  - (c) in the case of the appointment of an administrative receiver of the company, when the receiver or any successor to the receiver ceases to hold office without a successor being appointed,
  - (d) in the case of a voluntary arrangement approved under Part 1 taking effect in relation to the company, when the arrangement ceases to have effect,
  - (e) in the case of the company going into liquidation, when—
    - (i) the liquidator complies with section 94(2), 106(2) or 146(3) (duties relating to final account), or
    - (ii) the appointment of the liquidator ceases to have effect under an order under section 901F of the Companies Act 2006,
  - (f) in the case of the appointment of a provisional liquidator for the company, when the provisional liquidator or any successor to the provisional liquidator ceases to hold office without a successor being appointed, and
  - (g) in the case of the making of a court order under section 901C(1) of the Companies Act 2006 in relation to the company, when—
    - (i) an order made by the court under section 901F of that Act takes effect, or
    - (ii) the court decides not to make such an order.
- (9) In this section “office-holder”, in relation to a company which has entered into an insolvency procedure as specified in subsection (2)(b), (c), (e) or (f),

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means the administrator, administrative receiver, liquidator or provisional liquidator respectively.

(10) Schedule 4ZZA provides for exclusions from the operation of this section.

**Textual Amendments**

**F23** Ss. 233B, 233C inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), **ss. 14(1)**, 49(1) (with [ss. 2\(2\)](#), 5(2), 14(4))

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

**C15** [S. 233B](#) excluded (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(2020 c. 12\)](#), **ss. 15**, 49(1) (with [ss. 2\(2\)](#), 5(2))

**C16** [S. 233B](#) applied by [S.I. 1994/2421](#), **art. 4(3)(a)** (as amended) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 12 para. 5** (with [ss. 2\(2\)](#), 5(2), 14(4))

**233C Powers to amend section 233B and Schedule 4ZZA**

- (1) The Secretary of State may by regulations omit any of paragraphs (a) to (g) of section 233B(2) (relevant insolvency procedures).
- (2) The Secretary of State may by regulations amend Schedule 4ZZA so as to—
  - (a) remove or amend any exclusion from section 233B for the time being specified there, or
  - (b) add further exclusions from section 233B.
- (3) In subsection (2), references to exclusions from section 233B are to circumstances in which section 233B, or any provision of that section, does not apply.
- (4) The circumstances referred to in subsection (3) may be framed by reference to kinds of company, supplier, contract, goods or services or in any other way.
- (5) Regulations under this section may make—
  - (a) different provision for different purposes;
  - (b) consequential provision;
  - (c) transitional and supplementary provision.
- (6) Regulations under this section made by virtue of subsection (5) may in particular make provision amending this Act or any other enactment whenever passed or made (including, if paragraph 1(1) or (2) of Schedule 4ZZA is omitted, provision omitting section 233A or 233 respectively).
- (7) Regulations under subsection (1) may not omit section 233B(2)(c) unless the Secretary of State has first consulted the Scottish Ministers.
- (8) In this section “enactment” includes an Act of the Scottish Parliament and an instrument made under such an Act.
- (9) Regulations under this section are to be made by statutory instrument.
- (10) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.]



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#### Textual Amendments

- F23** Ss. 233B, 233C inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), **ss. 14(1), 49(1)** (with [ss. 2\(2\), 5\(2\), 14\(4\)](#))

### 234 Getting in the company's property.

- (1) This section applies in the case of a company where—
- [<sup>F24</sup>(a) the company enters administration,]
  - (b) an administrative receiver is appointed, or
  - (c) the company goes into liquidation, or
  - (d) a provisional liquidator is appointed;
- and “the office-holder” means the administrator, the administrative receiver, the liquidator or the provisional liquidator, as the case may be.
- (2) Where any person has in his possession or control any property, books, papers or records to which the company appears to be entitled, the court may require that person forthwith (or within such period as the court may direct) to pay, deliver, convey, surrender or transfer the property, books, papers or records to the office-holder.
- (3) Where the office-holder—
- (a) seizes or disposes of any property which is not property of the company, and
  - (b) at the time of seizure or disposal believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,
- the next subsection has effect.
- (4) In that case the office-holder—
- (a) is not liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as that loss or damage is caused by the office-holder's own negligence, and
  - (b) has a lien on the property, or the proceeds of its sale, for such expenses as were incurred in connection with the seizure or disposal.

#### Textual Amendments

- F24** S. 234(1)(a) substituted (15.9.2003) by [2002 c. 40, ss. 248\(3\), 279, Sch. 17 para. 23](#) (with [s. 249\(1\)-\(3\)\(6\)](#)); [S.I. 2003/2093, art. 2\(1\), Sch. 1](#) (subject to [arts. 3-8](#) (as amended by [S.I. 2003/2332, art. 2](#)))

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

- C6** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 4; S.I. 2018/1161, reg. 3\(d\)](#)
- C7** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 3; S.I. 2018/1161, reg. 3\(c\)](#)
- C17** S. 234 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, art. 7\(3\), Sch. 3 Pt. II para. 9](#)  
S. 234 applied (with modifications) (1.12.1994) by [S.I. 1994/2421, art. 8\(3\)\(9\), Sch. 4 Pt. II para. 27](#)
- C18** S. 234 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\), Sch. 2](#) (as amended (1.10.2009) by [S.S.I. 2009/310, reg. 3, Sch. 1 para. 1\(a\)](#))
- C19** S. 234 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](#)

*Status: Point in time view as at 04/01/2024.*

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- C20** S. 234 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 145, 263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296, arts. 2, 3, Sch. para. 3](#)
- C21** S. 234 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\), Pt. 3reg. 1, Sch. 2 paras. 3, 5 Table](#) (with reg. 24)
- C22** S. 234 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\), regs. 2, 37, Sch. 2 paras. 4-6](#) (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399, regs. 1\(2\), 4, 11](#))
- C23** S. 234 applied in part (with modifications) (4.1.2024) by [S.I. 2021/716, Sch. 1 para. 3](#) (as amended by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\), regs. 1\(2\), 20](#))

### **235 Duty to co-operate with office-holder.**

- (1) This section applies as does section 234; and it also applies, in the case of a company in respect of which a winding-up order has been made by the court in England and Wales, as if references to the office-holder included the official receiver, whether or not he is the liquidator.
- (2) Each of the persons mentioned in the next subsection shall—
  - (a) give to the office-holder such information concerning the company and its promotion, formation, business, dealings, affairs or property as the office-holder may at any time after the effective date reasonably require, and
  - (b) attend on the office-holder at such times as the latter may reasonably require.
- (3) The persons referred to above are—
  - (a) those who are or have at any time been officers of the company,
  - (b) those who have taken part in the formation of the company at any time within one year before the effective date,
  - (c) those who are in the employment of the company, or have been in its employment (including employment under a contract for services) within that year, and are in the office-holder's opinion capable of giving information which he requires,
  - (d) those who are, or have within that year been, officers of, or in the employment (including employment under a contract for services) of, another company which is, or within that year was, an officer of the company in question, and
  - (e) in the case of a company being wound up by the court, any person who has acted as administrator, administrative receiver or liquidator of the company.
- (4) For the purposes of subsections (2) and (3), “the effective date” is whichever is applicable of the following dates—
  - <sup>F25</sup>(a) the date on which the company entered administration,]
  - (b) the date on which the administrative receiver was appointed or, if he was appointed in succession to another administrative receiver, the date on which the first of his predecessors was appointed,
  - (c) the date on which the provisional liquidator was appointed, and
  - (d) the date on which the company went into liquidation.
- (5) If a person without reasonable excuse fails to comply with any obligation imposed by this section, he is liable to a fine and, for continued contravention, to a daily default fine.

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### Textual Amendments

**F25** S. 235(4)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 24 (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

### Modifications etc. (not altering text)

- C6** Ss. 233-237 applied (with modifications) (31.1.2019) by Technical and Further Education Act 2017 (c. 19), s. 47(2), Sch. 4; S.I. 2018/1161, reg. 3(d)
- C7** Ss. 233-237 applied (with modifications) (31.1.2019) by Technical and Further Education Act 2017 (c. 19), s. 47(2), Sch. 3; S.I. 2018/1161, reg. 3(c)
- C24** S. 235 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2 (as amended (1.10.2009) by S.S.I. 2009/310, reg. 3, Sch. 1 para. 1(b))
- C25** S. 235 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
- C26** S. 235 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 145, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 3
- C27** S. 235 applied (with modifications) (6.6.2013) by The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013 (S.I. 2013/1388), Pt. 3 reg. 1, Sch. 2 paras. 3, 5 Table (with reg. 24)
- C28** S. 235 applied (with modifications) (8.7.2021) by The Payment and Electronic Money Institution Insolvency Regulations 2021 (S.I. 2021/716), regs. 2, 37 (with reg. 5) (as amended (4.1.2024) by S.I. 2023/1399, regs. 1(2), 4, 11)
- C29** S. 235 applied (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), 112 (with rule 2)
- C30** S. 235 applied in part (with modifications) (4.1.2024) by S.I. 2021/716, Sch. 1 para. 3 (as amended by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), 20)

## 236 Inquiry into company's dealings, etc.

- (1) This section applies as does section 234; and it also applies in the case of a company in respect of which a winding-up order has been made by the court in England and Wales as if references to the office-holder included the official receiver, whether or not he is the liquidator.
- (2) The court may, on the application of the office-holder, summon to appear before it—
  - (a) any officer of the company,
  - (b) any person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or
  - (c) any person whom the court thinks capable of giving information concerning the promotion, formation, business, dealings, affairs or property of the company.
- (3) The court may require any such person as is mentioned in subsection (2)(a) to (c) to submit [<sup>F26</sup>to the court] an account of his dealings with the company or to produce any books, papers or other records in his possession or under his control relating to the company or the matters mentioned in paragraph (c) of the subsection.

- [<sup>F27</sup>(3A) An account submitted to the court under subsection (3) must be contained in—
- (a) a witness statement verified by a statement of truth (in England and Wales), and
  - (b) an affidavit (in Scotland).]

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- (4) The following applies in a case where—
- (a) a person without reasonable excuse fails to appear before the court when he is summoned to do so under this section, or
  - (b) there are reasonable grounds for believing that a person has absconded, or is about to abscond, with a view to avoiding his appearance before the court under this section.
- (5) The court may, for the purpose of bringing that person and anything in his possession before the court, cause a warrant to be issued to a constable or prescribed officer of the court—
- (a) for the arrest of that person, and
  - (b) for the seizure of any books, papers, records, money or goods in that person's possession.
- (6) The court may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until that person is brought before the court under the warrant or until such other time as the court may order.

#### Textual Amendments

- F26** Words in s. 236(3) substituted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 5(6)(a)**
- F27** S. 236(3A) inserted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\)](#), **art. 5(6)(b)**

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

- C6** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), **Sch. 4**; S.I. 2018/1161, reg. 3(d)
- C7** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), **Sch. 3**; S.I. 2018/1161, reg. 3(c)
- C31** S. 236 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), **Sch. 2** (as amended (1.10.2009) by [S.S.I. 2009/310](#), reg. 3, **Sch. 1 para. 1(c)**)
- C32** S. 236 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**
- C33** S. 236 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, **Sch. para. 3**
- C34** S. 236 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), Pt. 3 reg. 1, **Sch. 2 paras. 3, 5** Table (with reg. 24)
- C35** S. 236 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), regs. 2, **37** (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), **4, 11**)
- C36** Ss. 236-237 applied in part (with modifications) (4.1.2024) by [S.I. 2021/716](#), **Sch. 1 para. 3** (as amended by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **20**)

## 237 Court's enforcement powers under s. 236.

- (1) If it appears to the court, on consideration of any evidence obtained under section 236 or this section, that any person has in his possession any property of the company,

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the court may, on the application of the office-holder, order that person to deliver the whole or any part of the property to the office-holder at such time, in such manner and on such terms as the court thinks fit.

- (2) If it appears to the court, on consideration of any evidence so obtained, that any person is indebted to the company, the court may, on the application of the office-holder, order that person to pay to the office holder, at such time and in such manner as the court may direct, the whole or any part of the amount due, whether in full discharge of the debt or otherwise, as the court thinks fit.

the court may, if it thinks fit, order that any person who if within the jurisdiction of the court would be liable to be summoned to appear before it under section 236 or this section shall be examined in any part of the United Kingdom where he may for the time being be, or in a place outside the United Kingdom.

- (4) Any person who appears or is brought before the court under section 236 or this section may be examined on oath, either orally or (except in Scotland) by interrogatories, concerning the company or the matters mentioned in section 236(2)(c).

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

- C6** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 4](#); [S.I. 2018/1161](#), reg. 3(d)
- C7** Ss. 233-237 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 3](#); [S.I. 2018/1161](#), reg. 3(c)
- C36** Ss. 236-237 applied in part (with modifications) (4.1.2024) by [S.I. 2021/716](#), [Sch. 1 para. 3](#) (as amended by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), [20](#))
- C37** S. 237 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), [Sch. 2](#) (as amended (1.10.2009) by [S.S.I. 2009/310](#), reg. 3, [Sch. 1 para. 1\(c\)](#))
- C38** S. 237 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](#)
- C39** S. 237 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 145](#), 263(1)(2) (with s. 247); [S.I. 2009/296](#), [arts. 2](#), 3, [Sch. para. 3](#)
- C40** S. 237 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), Pt. 3 reg. 1, [Sch. 2 paras. 3](#), [5](#) Table (with reg. 24)
- C41** S. 237 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), regs. 2, [37](#) (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), [4](#), [11](#))

**Status:**

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