



# Companies Act 1989

## 1989 CHAPTER 40

### PART VII

#### FINANCIAL MARKETS AND INSOLVENCY

##### *Supplementary provisions*

#### **182 Powers of court in relation to certain proceedings begun before commencement.**

- (1) The powers conferred by this section are exercisable by the court where insolvency proceedings in respect of—
- (a) a member of a recognised investment exchange or a recognised clearing house, or
  - (b) a person by whom a market charge has been granted,
- are begun on or after 22nd December 1988 and before the commencement of this section.

That person is referred to in this section as “the relevant person”.

- (2) For the purposes of this section “insolvency proceedings” means proceedings under Part II, IV, V or IX of the <sup>M1</sup>Insolvency Act 1986 (administration, winding up and bankruptcy) or under the Bankruptcy (Scotland) Act [<sup>F1</sup>2016]; and references in this section to the beginning of such proceedings are to—
- [<sup>F2</sup>(za) the making of a bankruptcy application on which a bankruptcy order is made,]
  - (a) the presentation of a petition on which an administration order, winding-up order, bankruptcy order or award of sequestration is made, or
  - (b) the passing of a resolution for voluntary winding up.
- (3) This section applies in relation to—
- (a) in England and Wales, the administration of the insolvent estate of a deceased person, and

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*Changes to legislation: There are currently no known outstanding effects  
for the Companies Act 1989, Section 182. (See end of Document for details)*

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(b) in Scotland, the administration by a judicial factor appointed under section 11A of the <sup>M2</sup>Judicial Factors (Scotland) Act 1889 of the insolvent estate of a deceased person,  
as it applies in relation to insolvency proceedings.

In such a case references to the beginning of the proceedings shall be construed as references to the death of the relevant person.

(4) The court may on an application made, within three months after the commencement of this section, by—

- (a) a recognised investment exchange or recognised clearing house, or
- (b) a person in whose favour a market charge has been granted,

make such order as it thinks fit for achieving, except so far as assets of the relevant person have been distributed before the making of the application, the same result as if the provisions of Schedule 22 had come into force on 22nd December 1988.

(5) The provisions of that Schedule (“the relevant provisions”) reproduce the effect of certain provisions of this Part as they appeared in the Bill for this Act as introduced into the House of Lords and published on that date.

(6) The court may in particular—

- (a) require the relevant person or a relevant office-holder—
  - (i) to return property provided as cover for margin or which was subject to a market charge, or to pay to the applicant or any other person the proceeds of realisation of such property, or
  - (ii) to pay to the applicant or any other person such amount as the court estimates would have been payable to that person if the relevant provisions had come into force on 22nd December 1988 and market contracts had been settled in accordance with the rules of the recognised investment exchange or recognised clearing house, or a proportion of that amount if the property of the relevant person or relevant office-holder is not sufficient to meet the amount in full;
- (b) provide that contracts, rules and dispositions shall be treated as not having been void;
- (c) modify the functions of a relevant office-holder, or the duties of the applicant or any other person, in relation to the insolvency proceedings, or indemnify any such person in respect of acts or omissions which would have been proper if the relevant provisions had been in force;
- (d) provide that conduct which constituted an offence be treated as not having done so;
- (e) dismiss proceedings which could not have been brought if the relevant provisions had come into force on 22nd December 1988, and reverse the effect of any order of a court which could not, or would not, have been made if those provisions had come into force on that date.

(7) An order under this section shall not be made against a relevant office-holder if the effect would be that his remuneration, costs and expenses could not be met.

#### **Textual Amendments**

**F1** Word in s. 182(2) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 6\(9\)](#)

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**F2** S. 182(2)(za) inserted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 9(7)**

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

**C1** S. 182 amended by S.I. 1991/880, **reg. 19(1)**

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**Commencement Information**

**I1** S. 182 wholly in force at 25.4.1991 see s. 215 and S.I. 1991/878, art. 2, **Sch.**

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**Marginal Citations**

**M1** 1986 c. 45.

**M2** 1889 c. 39.

**Changes to legislation:**

There are currently no known outstanding effects for the Companies Act 1989, Section 182.