



Finance Act 2008

2008 CHAPTER 9

PART 7

ADMINISTRATION

CHAPTER 5

PAYMENT AND ENFORCEMENT

Set off

131 No set-off where insolvency procedure has been applied

- (1) This section applies where—
 - (a) an insolvency procedure has been applied to a person, and
 - (b) there is a post-insolvency credit in relation to that person.
- (2) The Commissioners may not use the power under section 130 to set that post-insolvency credit against a pre-insolvency debit in relation to the person.
- (3) “Post-insolvency credit” means a credit that—
 - (a) became due after the insolvency procedure was applied to the person, and
 - (b) relates to, or to matters occurring at, times after it was so applied.
- (4) “Pre-insolvency debit” means a debit that—
 - (a) arose before the insolvency procedure was applied to the person, or
 - (b) arose after that procedure was so applied but relates to, or to matters occurring at, times before it was so applied.
- (5) Subject to subsection (6), an insolvency procedure is to be taken, for the purposes of this section, to be applied to a person when—
 - (a) a bankruptcy order or winding up order [^{F1}or award of sequestration] is made or an administrator is appointed in relation to that person,

Changes to legislation: Finance Act 2008, Section 131 is up to date with all changes known to be in force on or before 31 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) that person is put into administrative receivership,
 - (c) if the person is a corporation, that person passes a resolution for voluntary winding up,
 - (d) a voluntary arrangement comes into force in relation to that person,^{F2} ...
 - (e) a deed of arrangement takes effect in relation to that person [^{F3}, or
 - (f) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985).]
- (6) In this section references to the application of an insolvency procedure to a person do not include—
- (a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or
 - (b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect.
- (7) For the purposes of this section—
- (a) a person shall be treated as being in administrative receivership throughout any continuous period for which there is an administrative receiver of that person (disregarding any temporary vacancy in the office of receiver), and
 - (b) the reference in subsection (5) to a person being put into administrative receivership shall be interpreted accordingly.
- (8) In this section—
- “administrative receiver” means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 (c. 45) or Article 5(1) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- “administrator” means a person appointed to manage the affairs, business and property of another person under Schedule B1 to that Act or to that Order,
- “credit” and “debit” have the same meaning as in section 130,
- “deed of arrangement” means a deed of arrangement registered in accordance with ^{F4}... Chapter 1 of Part 8 the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), and
- “voluntary arrangement” means a voluntary arrangement approved in accordance with Part 1 or Part 8 of the Insolvency Act 1986 (c. 45) or Part 2 or Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989.

^{F5}(9)

Textual Amendments

- F1** Words in s. 131(5)(a) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 178\(4\)\(a\)](#)
- F2** Word in s. 131(5)(d) omitted (15.9.2016) by virtue of [Finance Act 2016 \(c. 24\), s. 178\(4\)\(b\)](#)
- F3** [S. 131\(5\)\(f\)](#) and word inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 178\(4\)\(b\)](#)
- F4** Words in s. 131(8) omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 6 para. 2\(21\)](#) (with [Sch. 6 para. 3](#)); [S.I. 2015/1732, art. 2\(e\)\(i\)](#)
- F5** [S. 131\(9\)](#) omitted (15.9.2016) by virtue of [Finance Act 2016 \(c. 24\), s. 178\(4\)\(c\)](#)

Modifications etc. (not altering text)

- C1** [S. 131](#) extended to Scotland (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 178\(1\)](#)

Changes to legislation:

Finance Act 2008, Section 131 is up to date with all changes known to be in force on or before 31 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- s. 131 extended to Scotland by [2016 c. 24 s. 178\(1\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)