



Insolvency Act 1985

1985 CHAPTER 65

PART II

COMPANY INSOLVENCY ETC

CHAPTER VI

WINDING UP

Winding up by the court

76 Power of official receiver to apply for early dissolution

- (1) The official receiver may at any time apply to the registrar of companies for the early dissolution of a company in respect of which a winding-up order has been made by the court in England and Wales if—
 - (a) he is the liquidator of the company ; and
 - (b) it appears to him—
 - (i) that the realisable assets of the company are insufficient to cover the expenses of the winding up; and
 - (ii) that the affairs of the company do not require any further investigation.
- (2) Before making an application to the registrar under subsection (1) above, the official receiver shall give not less than twenty-eight days' notice of his intention to do so to the company's creditors and contributories and, if there is an administrative receiver of the company, to that receiver.
- (3) With the giving with respect to a company of a notice under subsection (2) above the official receiver shall (subject to any directions under this section) cease to be required to perform any duties imposed on him in relation to the company, its creditors or its contributories by virtue of any provision of this Part or the 1985 Act, apart from a duty to make an application under subsection (1) above.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Where a notice has been given with respect to a company under subsection (2) above, the official receiver or any creditor or contributory of the company or the administrative receiver of the company (if there is one) may apply to the Secretary of State for directions under this section.
- (5) The grounds on which an application for directions may be made under subsection (4) above are—
 - (a) that the realisable assets of the company are sufficient to cover the expenses of the winding up;
 - (b) that the affairs of the company do require further investigation; or
 - (c) that for any other reason the early dissolution of the company is inappropriate.
- (6) On the receipt of an application under subsection (1) above the registrar shall forthwith register it and, at the end of the period of three months beginning with the day of its registration, the company shall be dissolved; but the Secretary of State may, on the application of the official receiver or any other person who appears to the Secretary of State to be interested, give directions under this section at any time before the end of that period.
- (7) Directions under this section are directions making such provision as the Secretary of State thinks fit for enabling the winding up of the company to proceed as if no notice had been given under subsection (2) above and may, in the case of an application under subsection (6) above, include a direction deferring the date at which the dissolution of the company is to take effect for such period as the Secretary of State thinks fit.
- (8) An appeal to the court shall lie from any decision of the Secretary of State on an application for directions under this section.
- (9) It is the duty of the person on whose application any directions are given under this section, or in whose favour an appeal with respect to an application for such directions is determined, within seven days after the giving of the directions or the determination of the appeal, to deliver to the registrar for registration such a copy of the directions or determination as is prescribed.
- (10) If a person without reasonable excuse fails to deliver a copy as required by subsection (9) above, he shall be liable on summary conviction to a fine not exceeding one-fifth of the statutory maximum and, for continued contravention, to a daily default fine not exceeding one-fiftieth of the statutory maximum.