



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

### CHAPTER II

#### VOLUNTARY WINDING UP (INTRODUCTORY AND GENERAL)

#### *Declaration of solvency*

#### **89 Statutory declaration of solvency.**

- (1) Where it is proposed to wind up a company voluntarily, the directors (or, in the case of a company having more than two directors, the majority of them) may at a directors' meeting make a statutory declaration to the effect that they have made a full inquiry into the company's affairs and that, having done so, they have formed the opinion that the company will be able to pay its debts in full, together with interest at the official rate (as defined in section 251), within such period, not exceeding 12 months from the commencement of the winding up, as may be specified in the declaration.
- (2) Such a declaration by the directors has no effect for purposes of this Act unless—
  - (a) it is made within the 5 weeks immediately preceding the date of the passing of the resolution for winding up, or on that date but before the passing of the resolution, and
  - (b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the making of the declaration.
- (3) The declaration shall be delivered to the registrar of companies before the expiration of 15 days immediately following the date on which the resolution for winding up is passed.

*Status: Point in time view as at 28/06/2016.*

*Changes to legislation: Insolvency Act 1986, Cross Heading: Declaration of solvency is up to date with all changes known to be in force on or before 24 June 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)*

- (4) A director making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full, together with interest at the official rate, within the period specified is liable to imprisonment or a fine, or both.
- (5) If the company is wound up in pursuance of a resolution passed within 5 weeks after the making of the declaration, and its debts (together with interest at the official rate) are not paid or provided for in full within the period specified, it is to be presumed (unless the contrary is shown) that the director did not have reasonable grounds for his opinion.
- (6) If a declaration required by subsection (3) to be delivered to the registrar is not so delivered within the time prescribed by that subsection, the company and every officer in default is liable to a fine and, for continued contravention, to a daily default fine.

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

- C1** S. 89(3) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 23(5)** (with s. 126(3)-(11)); S.I. 1998/3178, **arts. 2, 3** (as amended (28.6.2016) by [The Building Societies \(Floating Charges and Other Provisions\) Order 2016](#) (S.I. 2016/679), arts. 1(1), **6**)

**90 Distinction between “members” and “creditors” voluntary winding up.**

A winding up in the case of which a directors’ statutory declaration under section 89 has been made is a “members’ voluntary winding up”; and a winding up in the case of which such a declaration has not been made is a “creditors’ voluntary winding up”.

**Status:**

Point in time view as at 28/06/2016.

**Changes to legislation:**

Insolvency Act 1986, Cross Heading: Declaration of solvency is up to date with all changes known to be in force on or before 24 June 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.