



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

#### CHAPTER VI

#### WINDING UP BY THE COURT

#### *Commencement of winding up*

#### **129 Commencement of winding up by the court.**

- (1) If, before the presentation of a petition for the winding up of a company by the court, a resolution has been passed by the company for voluntary winding up, the winding up of the company is deemed to have commenced at the time of the passing of the resolution; and unless the court, on proof of fraud or mistake, directs otherwise, all proceedings taken in the voluntary winding up are deemed to have been validly taken.

[<sup>F1</sup>(1A) Where the court makes a winding-up order by virtue of paragraph 13(1)(e) of Schedule B1, the winding up is deemed to commence on the making of the order.]

- (2) In any other case, the winding up of a company by the court is deemed to commence at the time of the presentation of the petition for winding up.

#### **Textual Amendments**

- F1** S. 129(1A) inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 16 (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)**

- C1** S. 129 applied (7.2.1994) by 1993 c. 48, s. 144(4)(b)(i) (with s. 6(8)); S.I. 1994/86, art. 2

*Status: Point in time view as at 05/07/2018.*

*Changes to legislation: Insolvency Act 1986, Cross Heading: Commencement of winding up is up to date with all changes known to be in force on or before 30 July 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)*

- C2** S. 129 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)
- C3** S. 129(1A) modified (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), ss. 159(1), 198, **Sch. 20 para. 45**; [S.I. 2004/2575](#), **art. 2(1)**, Sch. 1
- C4** S. 129(1A) modified (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), ss. 73, 93(2)(3), **Sch. 10 para. 45**; [S.I. 2011/2329](#), **art. 3** (with arts. 4, 5)
- C5** S. 129(1A) modified by [S.I. 2012/3013](#), Sch. 2 para. 38 (as inserted (4.7.2018) by [The Insolvency of Registered Providers of Social Housing Regulations 2018 \(S.I. 2018/728\)](#), regs. 1, 3(6), **Sch. 2**)
- C6** S. 129(1A) modified (4.7.2018) by [The Insolvency of Registered Providers of Social Housing Regulations 2018 \(S.I. 2018/728\)](#), regs. 1, 2(3), **Sch. 1 Pt. 2**
- C7** S. 129(1A) modified (5.7.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 5 para. 44**; [S.I. 2018/805](#), reg. 3(b)

### 130 Consequences of winding-up order.

- (1) On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company (or otherwise as may be prescribed) to the registrar of companies, who shall enter it in his records relating to the company.
  - (2) When a winding-up order has been made or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company or its property, except by leave of the court and subject to such terms as the court may impose.
  - (3) When an order has been made for winding up a company [<sup>F2</sup>registered but not formed under the Companies Act 2006], no action or proceeding shall be commenced or proceeded with against the company or its property or any contributory of the company, in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.
- [<sup>F3</sup>(3A) In subsections (2) and (3), the reference to an action or proceeding includes action in respect of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts).]
- (4) An order for winding up a company operates in favour of all the creditors and of all contributories of the company as if made on the joint petition of a creditor and of a contributory.

#### Textual Amendments

- F2** Words in s. 130(3) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009, \(S.I. 2009/1941\)](#) arts. 2(1), 8, {Sch. 1 para. 75(15)} (with art. 10, Sch. 1 para. 84)
- F3** S. 130(3A) inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), **Sch. 8 para. 29**

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

- C8** S. 130 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), ss. 154, 155, 161(4), 182(4), **Sch. 22 para. 5(2)**; [S.I. 1991/878](#), **art. 2**, **Sch.**
- C9** S. 130 modified (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), s. 182(4), **Sch. 22 para. 12(4)**; [S.I. 1991/878](#), **art. 2**, **Sch.**
- C10** S. 130 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

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- C11** S. 130 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)
- C12** S. 130(1) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 23(2)(3)**; 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**)
- S. 130(1) applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**

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