



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

### CHAPTER VI

#### WINDING UP BY THE COURT

#### *General powers of court*

#### **147 Power to stay or sist winding up.**

- (1) The court may at any time after an order for winding up, on the application either of the liquidator or the official receiver or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in the winding up ought to be stayed or sisted, make an order staying or sisting the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.
- (2) The court may, before making an order, require the official receiver to furnish to it a report with respect to any facts or matters which are in his opinion relevant to the application.
- (3) A copy of every order made under this section shall 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.

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

- C1** S. 147 applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), art. 8(3)(9), [Sch. 4 Pt. II para. 19](#)  
S. 147 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), [Sch. 2](#)
- C2** S. 147 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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- C3** S. 147 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)
- C4** S. 147(3) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 23(2)-(3)**, (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)

## 148 Settlement of list of contributories and application of assets.

- (1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required<sup>F1</sup> . . . , and shall cause the company's assets to be collected, and applied in discharge of its liabilities.
- (2) If it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.
- (3) In settling the list, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

### Textual Amendments

- F1** Words in s. 148(1) omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009, \(S.I. 2009/1941\)](#) arts. 2(1), 8, {Sch. 1 para. 75(16)} (with art. 10, Sch. 1 para. 84)

### Modifications etc. (not altering text)

- C5** S. 148 modified by [S.I. 1986/1918, Rule 5](#)
- C6** S. 148 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

## 149 Debts due from contributory to company.

- (1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him (or from the estate of the person who he represents) to the company, exclusive of any money payable by him or the estate by virtue of any call<sup>F2</sup> . . . .
- (2) The court in making such an order may—
  - (a) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit, and
  - (b) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.
- (3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full (together with interest at the official rate) any money due on any account

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whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

#### Textual Amendments

**F2** Words in s. 149(1) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 75(16)} (with art. 10, Sch. 1 para. 84)

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

**C7** S. 149 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

### 150 Power to make calls.

- (1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the company's assets, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the company's debts and liabilities, and the expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.
- (2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay it.

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

**C8** S. 150 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

### <sup>F3</sup>151 Payment into bank of money due to company.

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#### Textual Amendments

**F3** S. 151 omitted (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 6 para. 9**; S.I. 2015/1732, art. 2(e)(iii)

### 152 Order on contributory to be conclusive evidence.

- (1) An order made by the court on a contributory is conclusive evidence that the money (if any) thereby appearing to be due or ordered to be paid is due, but subject to any right of appeal.
- (2) All other pertinent matters stated in the order are to be taken as truly stated as against all persons and in all proceedings except proceedings in Scotland against the heritable estate of a deceased contributory; and in that case the order is only prima facie evidence

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for the purpose of charging his heritable estate, unless his heirs or legatees of heritage were on the list of contributories at the time of the order being made.

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

- C9** S. 152 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

**153 Power to exclude creditors not proving in time.**

The court may fix a time or times within which creditors are to prove their debts or claims or to be excluded from the benefit of any distribution made before those debts are proved.

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

- C10** S. 153 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
- C11** S. 153 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)

**154 Adjustment of rights of contributories.**

The court shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled to it.

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

- C12** S. 154 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

**155 Inspection of books by creditors, etc.**

- (1) The court may, at any time after making a winding-up order, make such order for inspection of the company's books and papers by creditors and contributories as the court thinks just; and any books and papers in the company's possession may be inspected by creditors and contributories accordingly, but not further or otherwise.
- (2) Nothing in this section excludes or restricts any statutory rights of a government department or person acting under the authority of a government department.
- [<sup>F4</sup>(3) For the purposes of subsection (2) above, references to a government department shall be construed as including references to any part of the Scottish Administration.]

**Textual Amendments**

- F4** S. 155(3) inserted (1.7.1999) by [S.I. 1999/1820](#), art. 4, **Sch. 2 Pt. I para. 85**; [S.I. 1998/3178](#), **art. 3**

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

- C13** S. 155 excluded by [Social Security Pensions Act 1975 \(c. 60, SIF 113:1\)](#), **s. 57D(6)** (as inserted by [Social Security Act 1990 \(c. 27, SIF 113:1\)](#), s. 14, **Sch. 4 Pt. I para. 1**)  
S. 155 excluded (7.2.1994) by 1993 c. 48, **s. 122(1)** (with s. 6(8)); S.I. 1994/86, **art. 2**
- C14** S. 155 excluded (6.4.1997) by 1995 c. 26, **s. 26(1)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with transitional adaptations, modifications and savings in arts. 3-14)
- C15** S. 155 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
- C16** S. 155 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)

### **156 Payment of expenses of winding up.**

The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the expenses incurred in the winding up in such order of priority as the court thinks just.

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

- C17** S. 156 restricted (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 46, **Sch. para. 2(3)**
- C18** S. 156 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
- C19** S. 156 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)

### **157 Attendance at company meetings (Scotland).**

In the winding up by the court of a company registered in Scotland, the court has power to require the attendance of any officer of the company at any meeting of creditors or of contributories, or of a liquidation committee, for the purpose of giving information as to the trade, dealings, affairs or property of the company.

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

- C20** S. 157 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
- C21** S. 157 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)

### **158 Power to arrest absconding contributory.**

The court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the United Kingdom or otherwise to abscond or to remove or conceal any of his property for the purpose of evading payment of calls, may cause the contributory to be arrested and his books

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and papers and moveable personal property to be seized and him and them to be kept safely until such time as the court may order.

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

**C22** S. 158 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

**159 Powers of court to be cumulative.**

Powers conferred [<sup>F5</sup>on the court by this Act] are in addition to, and not in restriction of, any existing powers of instituting proceedings against a contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

**Textual Amendments**

**F5** Words in s. 159 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(17)} (with art. 10, Sch. 1 para. 84)

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

**C23** S. 159 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)

**160 Delegation of powers to liquidator (England and Wales).**

(1) Provision may be made by rules for enabling or requiring all or any of the powers and duties conferred and imposed on the court in England and Wales <sup>F6</sup>. . . in respect of the following matters—

- [<sup>F7</sup>(a) the seeking of decisions on any matter from creditors and contributories,]  
 (b) the settling of lists of contributories and the rectifying of the register of members where required, and the collection and application of the assets,  
 (c) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator,  
 (d) the making of calls,  
 (e) the fixing of a time within which debts and claims must be proved,

to be exercised or performed by the liquidator as an officer of the court, and subject to the court's control.

(2) But the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either that special leave or the sanction of the liquidation committee.

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### Textual Amendments

- F6** Words in s. 160(1) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 75(18)} (with art. 10, Sch. 1 para. 84)
- F7** S. 160(1)(a) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), **Sch. 9 para. 39**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

### Modifications etc. (not altering text)

- C24** S. 160 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
- C25** S. 160 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)

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