



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

#### CHAPTER VI

#### WINDING UP BY THE COURT

#### *Jurisdiction (Scotland)*

#### **120 Court of Session and sheriff court jurisdiction.**

- (1) The Court of Session has jurisdiction to wind up any company registered in Scotland.
- (2) When the Court of Session is in vacation, the jurisdiction conferred on that court by this section may (subject to the provisions of this Part) be exercised by the judge acting as vacation judge [<sup>F1</sup>in pursuance of section 4 of the Administration of Justice (Scotland) Act 1933].
- (3) Where the amount of a company's share capital paid up or credited as paid up does not exceed £120,000, the sheriff court of the sheriffdom in which the company's registered office is situated has concurrent jurisdiction with the Court of Session to wind up the company; but—
  - (a) the Court of Session may, if it thinks expedient having regard to the amount of the company's assets to do so—
    - (i) remit to a sheriff court any petition presented to the Court of Session for winding up such a company, or
    - (ii) require such a petition presented to a sheriff court to be remitted to the Court of Session; and
  - (b) the Court of Session may require any such petition as above mentioned presented to one sheriff court to be remitted to another sheriff court; and

*Status: Point in time view as at 08/12/2017.*

*Changes to legislation: Insolvency Act 1986, Cross Heading: Jurisdiction (Scotland) is up to date with all changes known to be in force on or before 08 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)*

- (c) in a winding up in the sheriff court the sheriff may submit a stated case for the opinion of the Court of Session on any question of law arising in that winding up.
- (4) For purposes of this section, the expression “registered office” means the place which has longest been the company’s registered office during the 6 months immediately preceding the presentation of the petition for winding up.
- (5) The money sum for the time being specified in subsection (3) is subject to increase or reduction by order under section 416 in Part XV.
- [<sup>F2</sup>(6) This section is subject to Article 3 of [<sup>F3</sup>the EU Regulation (jurisdiction under EU Regulation)] .]

#### Textual Amendments

- F1** Words repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), **Sch. 2**
- F2** S. 120(6) inserted (31.5.2002) by [S.I. 2002/1240](#), **reg. 7**
- F3** Words in s. 120(6) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), **reg. 1, Sch. para. 5** (with regs. 3, 4)

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

- C1** S. 120 extended (with modifications) by [S.I. 1989/638](#), **regs. 19(2), 21**  
 S. 120 applied (with modifications) (2.4.2001) by [2000 c. 39](#), s. 8, **Sch. 4 Pt. I para. 5**; [S.I. 2001/766](#), **art. 2(1)(a)** (subject to [art. 3](#))

### 121 Power to remit winding up to Lord Ordinary.

- (1) The Court of Session may, by Act of Sederunt, make provision for the taking of proceedings in a winding up before one of the Lords Ordinary; and, where provision is so made, the Lord Ordinary has, for the purposes of the winding up all the powers and jurisdiction of the court.
- (2) However, the Lord Ordinary may report to the Inner House any matter which may arise in the course of a winding up.

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

- C2** S. 121 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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