



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER VIII

PROVISIONS OF GENERAL APPLICATION IN WINDING UP

Execution, attachment and the Scottish equivalents

183 Effect of execution or attachment (England and Wales).

- (1) Where a creditor has issued execution against the goods or land of a company or has attached any debt due to it, and the company is subsequently wound up, he is not entitled to retain the benefit of the execution or attachment against the liquidator unless he has completed the execution or attachment before the commencement of the winding up.
- (2) However—
 - (a) if a creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which he had notice is substituted, for the purpose of subsection (1), for the date of commencement of the winding up;
 - (b) a person who purchases in good faith under a sale by the sheriff any goods of a company on which execution has been levied in all cases acquires a good title to them against the liquidator; and
 - (c) the rights conferred by subsection (1) on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court thinks fit.
- (3) For purposes of this Act—

Status: Point in time view as at 01/02/1991.

Changes to legislation: Insolvency Act 1986, Cross Heading: Execution, attachment and the Scottish equivalents is up to date with all changes known to be in force on or before 05 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)

- (a) an execution against goods is completed by seizure and sale, or by making of a charging order under section 1 of the ^{M1}Charging Orders Act 1979;
 - (b) an attachment of a debt is completed by receipt of the debt; and
 - (c) an execution against land is completed by seizure, by the appointment of a receiver, or by the making of a charging order under section 1 of the Act above-mentioned.
- (4) In this section “goods” includes all chattels personal; and “the sheriff” includes any officer charged with the execution of a writ or other process.
- (5) This section does not apply in the case of a winding up in Scotland.

Marginal Citations

M1 1979 c. 53.

184 Duties of sheriff (England and Wales).

- (1) The following applies where a company’s goods are taken in execution and, before their sale or the completion of the execution (by the receipt or recovery of the full amount of the levy), notice is served on the sheriff that a provisional liquidator has been appointed or that a winding-up order has been made, or that a resolution for voluntary winding up has been passed.
- (2) The sheriff shall, on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator; but the costs of execution are a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part of them for the purpose of satisfying the charge.
- (3) If under an execution in respect of a judgement for a sum exceeding [^{F1}£500] a company’s goods are sold or money is paid in order to avoid sale, the sheriff shall deduct the costs of the execution from the proceeds of sale or the money paid and retain the balance for 14 days.
- (4) If within that time notice is served on the sheriff of a petition for the winding up of the company having been presented, or of a meeting having been called at which there is to be proposed a resolution for voluntary winding up, and an order is made or a resolution passed (as the case may be), the sheriff shall pay the balance to the liquidator, who is entitled to retain it as against the execution creditor.
- (5) The rights conferred by this section on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court thinks fit.
- (6) In this section, “goods” includes all chattels personal; and “the sheriff” includes any officer charged with the execution of a writ or other process.
- (7) 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.
- (8) This section does not apply in the case of a winding up in Scotland.

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Textual Amendments

- F1** "£500" substituted by virtue of [S.I. 1986/1996, art. 2\(1\)](#), [Sch. Pt. I](#) (by art. 2(2) of that S.I. the new amount is not to affect any case where the goods are sold or payment to avoid sale is made, before the coming into force of the increase)

185 Effect of diligence (Scotland)

- (1) In the winding up of a company registered in Scotland, the following provisions of the ^{M2}Bankruptcy (Scotland) Act 1985—

subsections (1) to (6) of section 37 (effect of sequestration on diligence); and

(b) subsections (3), (4), (7) and (8) of section 39 (realisation of estate),

apply so far as consistent with this Act, in like manner as they apply in the sequestration of a debtor's estate, with the substitutions specified below and with any other necessary modifications.

The substitutions to be made in those sections of the Act of 1985 are as follows—

(a) for references to the debtor, substitute references to the company;

(b) for references to the sequestration, substitute references to the winding up;

(c) for references to the date of sequestration, substitute references to the commencement of the winding up of the company; and

(d) for references to the permanent trustee, substitute references to the liquidator.

- (3) In this section, "the commencement of the winding up of the company" means, where it is being wound up by the court, the day on which the winding-up order is made.

- (4) This section, so far as relating to any estate or effects of the company situated in Scotland, applies in the case of a company registered in England and Wales as in the case of one registered in Scotland.

Modifications etc. (not altering text)

- C1** S. 185 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), [ss. 154, 155, 161\(4\)](#); [S.I. 1991/878, art. 2](#), [Sch. .](#)
S. 185 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\)](#), [Sch. 2](#)

Marginal Citations

- M2** [1985 c. 66.](#)

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