



Insolvency Act 1986

1986 CHAPTER 45

The First Group of Parts Company Insolvency ; Companies Winding Up

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER X

MALPRACTICE BEFORE AND DURING LIQUIDATION ; PENALISATION OF
COMPANIES AND COMPANY OFFICERS ; INVESTIGATIONS AND PROSECUTIONS

Offences of fraud, deception, etc.

206 Fraud, etc. in anticipation of winding up

- (1) When a company is ordered to be wound up by the court, or passes a resolution for voluntary winding up, any person, being a past or present officer of the company, is deemed to have committed an offence if, within the 12 months immediately preceding the commencement of the winding up, he has—
- (a) concealed any part of the company's property to the value of £120 or more, or concealed any debt due to or from the company, or
 - (b) fraudulently removed any part of the company's property to the value of £120 or more, or
 - (c) concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the company's property or affairs, or
 - (d) made any false entry in any book or paper affecting or relating to the company's property or affairs, or
 - (e) fraudulently parted with, altered or made any omission in any document affecting or relating to the company's property or affairs, or
 - (f) pawned, pledged or disposed of any property of the company which has been obtained on credit and has not been paid for (unless the pawning, pledging or disposal was in the ordinary way of the company's business).

- (2) Such a person is deemed to have committed an offence if within the period above mentioned he has been privy to the doing by others of any of the things mentioned in paragraphs (c), (d) and (e) of subsection (1); and he commits an offence if, at any time after the commencement of the winding up, he does any of the things mentioned in paragraphs (a) to (f) of that subsection, or is privy to the doing by others of any of the things mentioned in paragraphs (c) to (e) of it.
- (3) For purposes of this section, " officer " includes a shadow director.
- (4) It is a defence—
- (a) for a person charged under paragraph (a) or (f) of subsection (1) (or under subsection (2) in respect of the things mentioned in either of those two paragraphs) to prove that he had no intent to defraud, and
 - (b) for a person charged under paragraph (c) or (d) of subsection (1) (or under subsection (2) in respect of the things mentioned in either of those two paragraphs) to prove that he had no intent to conceal the state of affairs of the company or to defeat the law.
- (5) Where a person pawns, pledges or disposes of any property in circumstances which amount to an offence under subsection (1)(f), every person who takes in pawn or pledge, or otherwise receives, the property knowing it to be pawned, pledged or disposed of in such circumstances, is guilty of an offence.
- (6) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.
- (7) The money sums specified in paragraphs (a) and (b) of subsection (1) are subject to increase or reduction by order under section 416 in Part XV.