



# Companies Act 1989

## 1989 CHAPTER 40

### PART VII

#### FINANCIAL MARKETS AND INSOLVENCY

##### *Market charges*

#### **176 Power to make provision about certain other charges.**

- (1) The Secretary of State may by regulations provide that the general law of insolvency has effect in relation to charges of such descriptions as may be specified in the regulations, and action taken in enforcing them, subject to such provisions as may be specified in the regulations.
- (2) The regulations may specify any description of charge granted in favour of—
  - (a) a body approved under section 170 (certain overseas exchanges and clearing houses),
  - <sup>[F1]</sup>(aa) <sup>[F2]</sup>... a third country CSD,]
  - (b) a person included in the list maintained by the <sup>[F3]</sup>Bank of England] for the purposes of <sup>[F4]</sup>section 301 of the Financial Services and Markets Act 2000] (certain money market institutions),
  - (c) the Bank of England,
  - <sup>[F5]</sup>(d) a person who has permission under <sup>[F6]</sup>Part 4A] of the Financial Services and Markets Act 2000 to carry on a relevant regulated activity, or
  - (e) an international securities self-regulating organisation approved for the purposes of an order made under section 22 of the Financial Services and Markets Act 2000,]

for the purpose of securing debts or liabilities arising in connection with or as a result of the settlement of contracts or the transfer of assets, rights or interests on a financial market.

- (3) The regulations may specify any description of charge granted for that purpose in favour of any other person in connection with exchange facilities or clearing services

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- [<sup>F7</sup>or settlement arrangements] provided by a recognised investment exchange or recognised clearing house or by any such body, person, authority or organisation as is mentioned in subsection (2) [<sup>F8</sup>, or in connection with authorised central securities depository services (see section 155(3D)) provided by a recognised CSD].
- (4) Where a charge is granted partly for the purpose specified in subsection (2) and partly for other purposes, the power conferred by this section is exercisable in relation to the charge so far as it has effect for that purpose.
- (5) The regulations may—
- (a) make the same or similar provision in relation to the charges to which they apply as is made by or under sections 174 and 175 in relation to market charges, or
  - (b) apply any of those provisions with such exceptions, additions or adaptations as are specified in the regulations.
- [<sup>F9</sup>(6) Before making regulations under this section relating to a description of charges defined by reference to their being granted in favour of a person included in the list maintained by the <sup>F10</sup> . . . [<sup>F11</sup>Bank of England] for the purposes of [<sup>F12</sup>section 301 of the Financial Services and Markets Act 2000], or in connection with exchange facilities or clearing services [<sup>F13</sup>or settlement arrangements] provided by a person included in that list, the Secretary of State and the Treasury shall consult the [<sup>F14</sup>FCA] and the Bank of England.
- (6A) Before making regulations under this section relating to a description of charges defined by reference to their being granted in favour of the Bank of England, or in connection with settlement arrangements provided by the Bank, the Secretary of State and the Treasury shall consult the Bank.]
- (7) Regulations under this section may provide that they apply or do not apply to a charge if or to the extent that it secures obligations of a specified description, is a charge over property of a specified description or contains provisions of a specified description.
- [<sup>F15</sup>(8) For the purposes of subsection (2)(d), “relevant regulated activity” means—
- (a) dealing in investments as principal or as agent;
  - (b) arranging deals in investments;
  - [<sup>F16</sup>(ba) operating a multilateral trading facility;]
  - [<sup>F17</sup>(bb) operating an organised trading facility;]
  - (c) managing investments;
  - (d) safeguarding and administering investments;
  - (e) sending dematerialised instructions; <sup>F18</sup> . . .
  - [<sup>F19</sup>(ea) managing a UCITS;
  - (eb) acting as trustee or depositary of a UCITS;
  - (ec) managing an AIF;
  - (ed) acting as trustee or depositary of an AIF; or]
  - (f) establishing etc. a collective investment scheme.
- (9) Subsection (8) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;

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- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

#### Textual Amendments

- F1** S. 176(2)(aa) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(20)(a)** (with regs. 7(4), 9(1))
- F2** Words in s. 176(2)(aa) omitted (31.12.2020) by virtue of The Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/341), regs. 1(3), **2(5)** (with reg. 21) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 23(b) and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 176(2)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 69(2)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F4** Words in s. 176(2)(b) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 85(2)(b)**
- F5** S. 176(2)(d)(e) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 85(3)**
- F6** Words in s. 176(2)(d) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 69(2)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 176(3) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(20)(b)(i)** (with regs. 7(4), 9(1))
- F8** Words in s. 176(3) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(20)(b)(ii)** (with regs. 7(4), 9(1))
- F9** S. 176(6)(6A) substituted (1.6.1998) for s. 176(6) by 1998 c. 11, s. 23, **Sch. 5 Pt. III para. 48(3)**; S.I. 1998/1120, **art. 2**
- F10** Words in s. 176(6) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 85(4)(a)**
- F11** Words in s. 176(6) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 69(3)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F12** Words in s. 176(6) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 85(4)(b)**
- F13** Words in s. 176(6) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(20)(c)** (with regs. 7(4), 9(1))
- F14** Word in s. 176(6) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 69(3)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F15** S. 176(8)(9) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1, 85(5)**
- F16** S. 176(8)(ba) inserted (1.4.2007 for certain purposes and otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment No. 3) Order 2006 (S.I. 2006/3384), arts. 1(2), **32**
- F17** S. 176(8)(bb) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), art. 1(2), **Sch. para. 2**
- F18** Word in s. 176(8) omitted (22.7.2013) by virtue of The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, **Sch. 1 para. 39**
- F19** S. 176(8)(ea)-(ed) inserted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, **Sch. 1 para. 39**

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

- C1** S. 176: certain functions made exercisable (7.6.1992) jointly by the Secretary of State and the Treasury by S.I. 1992/1315, art. 4, **Sch. 2 para. 7** (with art. 6).
- C2** S. 176 amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para. 29**  
S. 176(2) extended (1.1.1996) by S.I. 1995/3275, reg. 57, **Sch. 10 Pt. I para. 13**

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*Changes to legislation: There are currently no known outstanding effects  
for the Companies Act 1989, Section 176. (See end of Document for details)*

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### **Commencement Information**

- II** S. 176 wholly in force: s. 176 not in force at Royal Assent see s. 215(1)(2); s. 176 in force for certain purposes at 25.3.1991 by [S.I. 1991/488](#), [art. 2\(2\)](#); s. 176 wholly in force at 4.7.1995 by [S.I. 1995/1591](#), [art. 2](#)

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**Changes to legislation:**

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