



Companies Act 1947

1947 CHAPTER 47

PART V

WINDING UP.

91 Amendments as to preferential payments.

- (1) The maximum amount to which, under subsection (1) of section two hundred and sixty-four of the principal Act, priority is to be given—
 - (a) to a debt for the wages or salary of a clerk or servant; or
 - (b) to a debt for the wages of a workman or labourer; or
 - (c) to any sum ordered under the Reinstatement in Civil Employment Act, 1944, to be paid by way of compensation;shall be two hundred pounds (instead of being fifty pounds in the cases referred to in paragraphs (a) and (c) of this subsection or twenty-five pounds in the case referred to in paragraph (b) thereof).
- (2) The period within which services must have been rendered by a workman or labourer for his wages in respect thereof to have priority under the said subsection (1) shall be the same as in the case of a clerk or servant, that is to say, four months (instead of two months).
- (3) In section two hundred and ninety-eight of the principal Act (which modifies the said section two hundred and sixty-four in relation to companies within the stannaries), so much of paragraph (1) as reduces the said period of four months in the case of a clerk or servant to three months shall cease to have effect, and in paragraph (2) (which in the case of a miner, artisan or labourer substitutes for the maximum amount specified in the said section two hundred and sixty-four an amount equal to three months wages) for the reference to three months there shall be substituted a reference to four months.
- (4) For the purposes of the said sections two hundred and sixty-four and two hundred and ninety-eight any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

Status: This is the original version (as it was originally enacted).

- (5) The debts which are to be paid in priority under the said section two hundred and sixty-four shall include all accrued holiday remuneration becoming payable to a clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment with the company before or by the effect of the winding up order or resolution; and in relation to any sums payable in priority by virtue of this subsection, subsection (3) of the said section two hundred and sixty-four and paragraphs (3) and (5) of the said section two hundred and ninety-eight shall apply as they apply in relation to wages.
- (6) For the purposes of this section—
- (a) the expression "accrued holiday remuneration" includes in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment (including any order made or direction given under any Act), are payable on account of the remuneration which would in the ordinary course have become payable to him in respect of a period of holiday had his employment with the company continued until he became entitled to be allowed the holiday; and
 - (b) references to remuneration in respect of a period of holiday include any sums which, if they had been paid, would have been treated for the purposes of the National Insurance Act, 1946, or any enactment repealed by that Act as remuneration in respect of that period.
- (7) For the definition in subsection (7) of the said section two hundred and sixty-four of the expression "the relevant date" (that is to say the date by reference to which the debts payable in priority under that section are to be ascertained) there shall be substituted the following definition:—
- “In this section the expression 'the relevant date'—
- (a) in the case of a company ordered to be wound up compulsorily, means—
 - (i) the date of the appointment (or first appointment) of a provisional liquidator; or
 - (ii) if no such appointment was made, the date of the winding up order;

unless in either case the company had commenced to be wound Up voluntarily before that date; and
 - (b) in any case where the foregoing paragraph does not apply, means the date of the passing of the resolution for the winding up of the company.”
- (8) The amendments made by subsections (1) to (6) of this section shall have effect also for the purposes of section seventy-eight of the principal Act (which applies the said section two hundred and sixty-four where a receiver is appointed or possession is taken of any property by or on behalf of debenture holders) with the substitution in subsection (5) for the reference to the winding up order or resolution of a reference to the appointment of the receiver or possession being taken, by or on behalf of the debenture holders, of the company's property; but nothing in this section shall apply where the date referred to in subsection (7) of the said section two hundred and sixty-four (as originally enacted) or, in a case to which the said section seventy-eight applies, the corresponding date referred to in subsection (2) of that section, occurred before the coming into force of this section.