



Companies Act 1985

1985 CHAPTER 6

PART XX

WINDING UP OF COMPANIES REGISTERED UNDER THIS ACT OR THE FORMER COMPANIES ACTS

CHAPTER I

PRELIMINARY

Modes of winding up

501 The three modes in which a company may be wound up

- (1) The winding up of a company may be either—
 - (a) by the court, or
 - (b) voluntary, or
 - (c) subject to the supervision of the court.
- (2) This Part applies, unless the contrary appears, to the winding up of a company in any of those modes.

Contributories

502 Liability as contributories of present and past members

- (1) When a company is wound up, every present and past member is liable to contribute to its assets to any amount sufficient for payment of its debts and liabilities, and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves.
- (2) This is subject as follows—

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- (a) a past member is not liable to contribute if he has ceased to be a member for one year or more before the commencement of the winding up;
 - (b) a past member is not liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;
 - (c) a past member is not liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;
 - (d) in the case of a company limited by shares, no contribution is required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member;
 - (e) nothing in this Act invalidates any provision contained in a policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;
 - (f) a sum due to any member of the company (in his character of a member) by way of dividends, profits or otherwise is not deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.
- (3) In the case of a company limited by guarantee, no contribution is required from any member exceeding the amount undertaken to be contributed by him to the company's assets in the event of its being wound up; but if it is a company with a share capital, every member of it is liable (in addition to the amount so undertaken to be contributed to the assets), to contribute to the extent of any sums unpaid on shares held by him.

503 Directors, etc., with unlimited liability

- (1) In the winding up of a limited company, any director or manager (whether past or present) whose liability is under this Act unlimited is liable, in addition to his liability (if any) to contribute as an ordinary member, to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company.
- (2) However—
- (a) a past director or manager is not liable to make such further contribution if he has ceased to hold office for a year or more before the commencement of the winding up;
 - (b) a past director or manager is not liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;
 - (c) subject to the company's articles, a director or manager is not liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the company's debts and liabilities and the costs, charges and expenses of the winding up.

504 Liability of past directors and shareholders

- (1) This section applies where a company is being wound up and—

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- (a) it has under Chapter VII of Part V made a payment out of capital in respect of the redemption or purchase of any of its own shares (the payment being referred to below as "the relevant payment"), and
 - (b) the aggregate amount of the company's assets and the amounts paid by way of contribution to its assets (apart from this section) is not sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up.
- (2) If the winding up commenced within one year of the date on which the relevant payment was made, then—
- (a) the person from whom the shares were redeemed or purchased, and
 - (b) the directors who signed the statutory declaration made in accordance with section 173(3) for purposes of the redemption or purchase (except a director who shows that he had reasonable grounds for forming the opinion set out in the declaration),
- are, so as to enable that insufficiency to be met, liable to contribute to the following extent to the company's assets.
- (3) A person from whom any of the shares were redeemed or purchased is liable to contribute an amount not exceeding so much of the relevant payment as was made by the company in respect of his shares; and the directors are jointly and severally liable with that person to contribute that amount.
- (4) A person who has contributed any amount to the assets in pursuance of this section may apply to the court for an order directing any other person jointly and severally liable in respect of that amount to pay him such amount as the court thinks just and equitable.
- (5) Sections 502 and 503 above do not apply in relation to liability accruing by virtue of this section.
- (6) This section is deemed included in Chapter VII of Part V for the purposes of the Secretary of State's power to make regulations under section 179.

505 Limited company formerly unlimited

- (1) This section applies in the case of a company being wound up which was at some former time registered as unlimited but has re-registered—
- (a) as a public company under section 43 of this Act (or the former corresponding provision, section 5 of the Companies Act 1980), or
 - (b) as a limited company under section 51 of this Act (or the former corresponding provision, section 44 of the Companies Act 1967).
- (2) Notwithstanding section 502(2)(a) above, a past member of the company who was a member of it at the time of re-registration, if the winding up commences within the period of 3 years beginning with the day on which the company was re-registered, is liable to contribute to the assets of the company in respect of debts and liabilities contracted before that time.
- (3) If no persons who were members of the company at that time are existing members of it, a person who at that time was a present or past member is liable to contribute as above notwithstanding that the existing members have satisfied the contributions required to be made by them under this Act.

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This applies subject to section 502(2)(a) above and to subsection (2) of this section, but notwithstanding section 502(2)(c).

- (4) Notwithstanding section 502(2)(d) and (3), there is no limit on the amount which a person who, at that time, was a past or present member of the company is liable to contribute as above.

506 Unlimited company formerly limited

- (1) This section applies in the case of a company being wound up which was at some former time registered as limited but has been re-registered as unlimited under section 49 (or the former corresponding provision, section 43 of the Companies Act 1967).
- (2) A person who, at the time when the application for the company to be re-registered was lodged, was a past member of the company and did not after that again become a member of it is not liable to contribute to the assets of the company more than he would have been liable to contribute had the company not been re-registered.

507 Meaning of " contributory "

- (1) In this Act, the expression "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.
- (2) A reference in a company's articles to a contributory does not (unless the context requires) include a person who is a contributory only by virtue of section 504.

This subsection is deemed included in Chapter VII of Part V for the purposes of the Secretary of State's power to make regulations under section 179.

508 Nature of contributory's Liability

The liability of a contributory creates a debt (in England and Wales in the nature of a specialty) accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

509 Contributories in case of death of a member

- (1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives, and the heirs and legatees of heritage of his heritable estate in Scotland, are liable in a due course of administration to contribute to the assets of the company in discharge of his liability and are contributories accordingly.
- (2) Where the personal representatives are placed on the list of contributories, the heirs or legatees of heritage need not be added, but they may be added as and when the court thinks fit.
- (3) If in England and Wales the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the

estate of the deceased contributory and for compelling payment out of it of the money due.

510 Effect of contributory's bankruptcy

- (1) The following applies if a contributory becomes bankrupt, either before or after he has been placed on the list of contributories.
- (2) His trustee in bankruptcy represents him for all purposes of the winding up, and is a contributory accordingly.
- (3) The trustee may be called on to admit to proof against the bankrupt's estate, or otherwise allow to be paid out of the bankrupt's assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the company's assets.
- (4) There may be proved against the bankrupt's estate the estimated value of his liability to future calls as well as calls already made.

511 Companies registered under Part XXII, Chapter II

- (1) The following applies in the event of a company being wound up which has been registered under section 680 (or the previous corresponding provision).
- (2) Every person is a contributory, in respect of the company's debts and liabilities contracted before registration, who is liable—
 - (a) to pay, or contribute to the payment of, any debt or liability so contracted, or
 - (b) to pay, or contribute to the payment of, any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or
 - (c) to pay, or contribute to the payment of, the costs and expenses of winding up the company, so far as relates to the debts or liabilities above-mentioned.
- (3) Every contributory is liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability.
- (4) In the event of the death, bankruptcy or insolvency of any contributory, provisions of this Act with respect to the personal representatives, to the heirs and legatees of heritage of the heritable estate in Scotland of deceased contributories and to the trustees of bankrupt or insolvent contributories respectively, apply.

CHAPTER II

WINDING UP BY THE COURT

Jurisdiction (England and Wales)

512 High Court and county court jurisdiction

- (1) The High Court has jurisdiction to wind up any company registered in England and Wales.
- (2) Where the amount of a company's share capital paid up or credited as paid up does not exceed £120,000, then (subject to the provisions of this section) the county court of the

district in which the company's registered office is situated has concurrent jurisdiction with the High Court to wind up the company.

- (3) The money sum for the time being specified in subsection (2) is subject to increase or reduction by regulations under section 664; but no reduction of it affects any case in which proceedings were begun before the coming into force of the reduction.
- (4) The Lord Chancellor may by order in a statutory instrument exclude a county court from having winding-up jurisdiction, and for the purposes of that jurisdiction may attach its district, or any part thereof, to any other county court, and may by statutory instrument revoke or vary any such order.

In exercising the powers of this section, the Lord Chancellor shall provide that a county court is not to have winding-up jurisdiction unless it has for the time being jurisdiction in bankruptcy.

- (5) Every court in England and Wales having winding-up jurisdiction has for the purposes of that jurisdiction all the powers of the High Court; and every prescribed officer of the court shall perform any duties which an officer of the High Court may discharge by order of a judge of that court or otherwise in relation to winding up.
- (6) For purposes of this section, a company's "registered office" is the place which has longest been its registered office during the 6 months immediately preceding the presentation of the petition for winding up.

513 Proceedings taken in wrong court

- (1) Nothing in section 512 invalidates a proceeding by reason of its being taken in the wrong court
- (2) The winding up of a company by the court in England and Wales, or any proceedings in the winding up, may be retained in the court in which the proceedings were commenced, although it may not be the court in which they ought to have been commenced.

514 Proceedings in county court: case stated for High Court

If any question arises in any winding up proceedings in a county court which all the parties to the proceeding, or which one of them and the judge of the court, desire to have determined in the first instance in the High Court, the judge shall state the facts in the form of a special case for the opinion of the High Court; and thereupon the special case and the proceedings for such of them as may be required) shall be transmitted to the High Court for the purposes of the determination.

Jurisdiction (Scotland)

515 Court of Session and sheriff's 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 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
 - (c) in a winding up in the sheriff court it is lawful for the sheriff to submit a stated case for the opinion of the Court of Session on any question of law arising in that winding up.
- (4) For the 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 regulations under section 664; but no reduction of it affects any case in which proceedings were begun before the coming into force of the reduction.

516 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.

Grounds and effect of winding-up petition

517 Circumstances in which company may be wound up by the court

- (1) A company may be wound up by the court if—
- (a) the company has by special resolution resolved that the company be wound up by the court.
 - (b) being a public company which was registered as such on its original incorporation, the company has not been issued with a certificate under section 117 (public company share capital requirements) and more than a year has expired since it was so registered.
 - (c) it is an old public company, within the meaning of section 1 of the Consequential Provisions Act.
 - (d) the company does not commence its business within a year from its incorporation or suspends its business for a whole year,
 - (e) the number of members is reduced below 2,

- (f) the company is unable to pay its debts,
 - (g) the court is of the opinion that it is just and equitable that the company should be wound up.
- (2) In Scotland, a company which the Court of Session has jurisdiction to wind up may be wound up by the Court if there is subsisting a floating charge over property comprised in the company's property and undertaking, and the court is satisfied that the security of the creditor entitled to the benefit of the floating charge is in jeopardy.

For this purpose a creditor's security is deemed to be in jeopardy if the Court is satisfied that events have occurred or are about to occur which render it unreasonable in the creditor's interests that the company should retain power to dispose of the property which is subject to the floating charge.

518 Definition of inability to pay debts

- (1) A company is deemed unable to pay its debts—
- (a) if a creditor (by assignment or otherwise) to whom the company is indebted in a sum exceeding £750 then due has served on the company, by leaving it at the company's registered office, a written demand requiring the company to pay the sum so due and the company has for 3 weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor, or
 - (b) if, in England and Wales, execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part, or
 - (c) if, in Scotland, the *induciae* of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made, or
 - (d) if, in Northern Ireland, a certificate of unenforceability has been granted in respect of a judgment against the company, or
 - (e) if it is proved to the satisfaction of the court that the company is unable to pay its debts (and, in determining that question, the court shall take into account the company's contingent and prospective liabilities).
- (2) The money sum for the time being specified in subsection (1)(a) is subject to increase or reduction by regulations under section 664: but no increase of it affects any case in which the winding-up petition was presented before the coming into force of the increase.

519 Application for winding up

- (1) Subject to the provisions of this section, an application to the court for the winding up of a company shall be by petition presented either by the company or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately.
- (2) Except as mentioned below, a contributory is not entitled to present a winding-up petition unless either—
- (a) the number of members is reduced below 2, or
 - (b) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his

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name, for at least 6 months during the 18 months before the commencement of the winding up, or have devolved on him through the death of a former holder.

- (3) A person who is liable under section 504 to contribute to a company's assets in the event of its being wound up may petition on either of the grounds set out in section 517(1)(f) and (g), and subsection (2) above does not then apply; but unless the person is a contributory otherwise than under section 504 he may not in his character as contributory petition on any other ground.

This subsection is deemed included in Chapter VII of Part V for the purposes of the Secretary of State's power to make regulations under section 179.

- (4) If the ground of the petition is that in section 517(1)(b) or (c), a winding-up petition may be presented by the Secretary of State.
- (5) The court shall not hear a petition presented by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable (or until caution is found, if so ordered by a Scottish court) and until a prima facie case for winding up has been established to the satisfaction of the court.
- (6) In a case falling within section 440 (expedient in the public interest, following report of inspectors, etc.) a winding-up petition may be presented by the Secretary of State.
- (7) Where a company is being wound up voluntarily or subject to supervision in England and Wales, a winding-up petition may be presented by the official receiver attached to the court as well as by any other person authorised in that behalf under the other provisions of this section ; but the court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding up or winding up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

520 Powers of court on hearing of petition

- (1) On hearing a winding-up petition the court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make an interim order, or any other order that it thinks fit; but the court shall not refuse to make a winding-up order on the ground only that the company's assets have been mortgaged to an amount equal to or in excess of those assets or that the company has no assets.
- (2) If the petition is presented by members of the company as contributories on the ground that it is just and equitable that the company should be wound up, the court, if it is of opinion—
- (a) that the petitioners are entitled to relief either by winding up the company or by some other means, and
 - (b) that in the absence of any other remedy it would be just and equitable that the company should be wound up,

shall make a winding-up order; but this does not apply if the court is also of the opinion both that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing that other remedy.

521 Power to stay or restrain proceedings against company

- (1) At any time after the presentation of a winding-up petition, and before a winding-up order has been made, the company, or any creditor or contributory, may—
 - (a) where any action or proceeding against the company is pending in the High Court or Court of Appeal in England and Wales or Northern Ireland, apply to the court in which the action or proceeding is pending for a stay of proceedings therein, and
 - (b) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding,and the court to which application is so made may (as the case may be) stay, sist or restrain the proceedings accordingly on such terms as it thinks fit
- (2) In the case of a company registered under section 680, where the application to stay, sist or restrain is by a creditor, this section extends to actions and proceedings against any contributory of the company.

522 Avoidance of property dispositions, etc.

In a winding up by the court, any disposition of the company's property, and any transfer of shares, or alteration in the status of the company's members, made after the commencement of the winding up is, unless the court otherwise orders, void.

523 Avoidance of attachments, etc.

- (1) Where a company registered in England and Wales is being wound up by the court, any attachment, sequestration, distress or execution put in force against the estate or effects of the company after the commencement of the winding up is void.
- (2) This section, so far as relates to any estate or effects of the company situated in England and Wales, applies in the case of a company registered in Scotland as it applies in the case of a company registered in England and Wales.

Commencement of winding up

524 Commencement of winding up by the court

- (1) If, before the presentation of a petition for the winding up of a company by the court, a resolution has been passed by the company for voluntary winding up, the winding up of the company is deemed to have commenced at the time of the passing of the resolution ; and unless the court, on proof of fraud or mistake, directs otherwise, all proceedings taken in the voluntary winding up are deemed to have been validly taken.
- (2) In any other case, the winding up of a company by the court is deemed to commence at the time of the presentation of the petition for winding up.

525 Consequences of winding-up order

- (1) On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company (or otherwise as may be prescribed) to the registrar of companies, who shall enter it in his records relating to the company.

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- (2) When a winding-up order has been made or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court and subject to such terms as the court may impose.
- (3) When an order has been made for winding up a company registered under section 680, no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company, in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.
- (4) An order for winding up a company operates in favour of all the creditors and of all contributories of the company as if made on the joint petition of a creditor and of a contributory.

The official receiver (England and Wales only)

526 The official receiver

- (1) For the purposes of this Act as it relates to the winding up of companies by the court in England and Wales, the term "official receiver" means the official receiver (if any) attached to the court for bankruptcy purposes or, if there is more than one such official receiver, then such one of them as the Secretary of State may appoint or, if there is no such official receiver, then an officer appointed for the purpose by the Secretary of State.
- (2) Any such officer shall, for the purpose of his duties under this Act, be styled "the official receiver".

527 Appointment of official receiver by court in certain cases

- (1) If in the case of the winding up of a company by the court in England and Wales it appears to the court desirable, with a view to securing the more convenient and economical conduct of the winding up, that some officer other than the person who would under section 526 be the official receiver should be the official receiver for the purposes of that winding up, the court may appoint that other officer to act.
- (2) The officer so appointed is then deemed, for all purposes of this Act, to be the official receiver in that winding up.

528 Statement of company's affairs

- (1) Where the court in England and Wales has made a winding-up order or appointed a provisional liquidator, there shall (unless the court otherwise orders) be made out and submitted to the official receiver a statement as to the affairs of the company in the prescribed form.
- (2) The statement shall be verified by affidavit and show particulars of the company's assets, its debts and liabilities, the names, residences and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

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- (3) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who at that date is the secretary of the company, or by such of the persons mentioned in the following subsection as the official receiver (subject to the direction of the court) may require to submit and verify the statement.
- (4) The persons referred to above are—
 - (a) those who are or have been officers of the company,
 - (b) those who have taken part in the formation of the company at any time within one year before the relevant date,
 - (c) those who are in the employment of the company, or have been in its employment within the year just mentioned, and are in the opinion of the official receiver capable of giving the information required, and
 - (d) those who are or have been within that year officers of or in the employment of a company which is, or within that year was, an officer of the company to which the statement relates.
- (5) For purposes of this section, " the relevant date " is—
 - (a) in a case where a provisional liquidator is appointed the date of his appointment, and
 - (b) in a case where no such appointment is made, the date of the winding-up order.
- (6) The statement of affairs required by this section shall be submitted within 14 days from the relevant date, or within such extended time as the official receiver or the court may for special reasons appoint.
- (7) If a person, without reasonable excuse, makes default in complying with the requirements of this section, he is liable to a fine and, for continued contravention, to a daily default fine.

529 Further provisions as to statement etc. under s. 528

- (1) A person making or concurring in the making of the statement and affidavit required by section 528 shall be allowed, and shall be paid by the official receiver or provisional liquidator (as the case may be) out of the company's assets such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official receiver may consider reasonable, subject to an appeal to the court.
- (2) A person stating himself in writing to be a creditor or contributory of the company is entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted under section 528, and to a copy of or extract from it.
- (3) A person untruthfully so stating himself to be a creditor or contributory is guilty of a contempt of court and, on the application of the official receiver or the liquidator, punishable accordingly.
- (4) The statement required by section 528 may be used in evidence against any person making or concurring in making it

530 Report by official receiver

- (1) When a winding-up order is made, the official receiver shall, as soon as practicable after the receipt of the statement to be submitted under section 528 (or, in a case where the court orders that no statement shall be submitted, as soon as practicable after the date of the order) submit a preliminary report to the court—
 - (a) as to the amount of capital issued, subscribed and paid up, and the estimated amount of assets and liabilities, and
 - (b) if the company has failed, as to the causes of the failure, and
 - (c) whether in his opinion further enquiry is desirable as to any matter relating to the promotion, formation or failure of the company or the conduct of its business.
- (2) The official receiver may also, if he thinks fit, make further reports (one or more) stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any officer of the company in relation to it since its formation, and any other matter which in his opinion it is desirable to bring to the notice of the court
- (3) If the official receiver states in any such further report that in his opinion a fraud has been committed as above-mentioned, the court has the further powers provided in sections 563 and 564 (public examination of promoters and officers).

Liquidators

531 Power of court to appoint liquidators

For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators.

532 Appointment and powers of provisional liquidator

- (1) Subject to the provisions of this section, the court may, at any time after the presentation of a winding-up petition, appoint a liquidator provisionally.
- (2) In England and Wales, the appointment of a provisional liquidator may be made at any time before the making of a winding-up order, and either the official receiver or any other fit person may be appointed.
- (3) In Scotland, such an appointment may be made at any time before the first appointment of liquidators.
- (4) When a liquidator is provisionally appointed by the court, his powers may be limited by the order appointing him.

533 Appointment, style, etc., of liquidators in England and Wales

- (1) The following provisions with respect to liquidators have effect on a winding-up order being made in England and Wales.
- (2) The official receiver by virtue of his office becomes the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such.

- (3) The official receiver shall summon separate meetings of the company's creditors and contributories for the purpose of determining whether or not an application is to be made to the court for appointing a liquidator in the place of the official receiver.
- (4) The court may make any appointment and order required to give effect to that determination; and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter in question, the court shall decide the difference and make such order thereon as it may think fit.
- (5) If a liquidator is not appointed by the court, the official receiver shall be the liquidator of the company.
- (6) The official receiver is, ex officio, the liquidator during any vacancy.
- (7) A liquidator shall be described, where a person other than the official receiver is liquidator, by the style of " the liquidator " and, where the official receiver is liquidator, by the style of " the official receiver and liquidator ", of the particular company in respect of which he is appointed (and not by his individual name).

534 Liquidator other than official receiver

If in the winding up of a company by the court in England and Wales a person other than the official receiver is appointed liquidator, that person—

- (a) cannot act as liquidator until he has notified his appointment to the registrar of companies and given security in the prescribed manner to the satisfaction of the Secretary of State,
- (b) shall give the official receiver such information, and such access to and facilities for inspecting the company's books and documents, and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

535 Liquidators in Scotland

- (1) The following provisions with respect to liquidators have effect in a winding up by the court in Scotland.
- (2) The court may determine whether any and what caution is to be found by a liquidator on his appointment.
- (3) A liquidator shall be described by the style of " the official liquidator " of the particular company in respect of which he is appointed (and not by his individual name).
- (4) Where an order has been made for winding up a company subject to supervision and an order is afterwards made for winding up by the court, the court may by the last-mentioned or by a subsequent order appoint any person who is then liquidator, either provisionally or permanently, and either with or without any other person, to be liquidator in the winding up by the court.

536 General provisions as to liquidators

- (1) A liquidator appointed by the court may resign or, on cause shown, be removed by the court

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

- (2) Where a person other than the official receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the court may direct; and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the court directs.
- (3) A vacancy in the office of a liquidator appointed by the court shall be filled by the court
- (4) If more than one liquidator is appointed by the court the court shall declare whether any act required or authorised by this Act to be done by the liquidator is to be done by all or any one or more of the persons appointed.
- (5) Subject to section 634 (disqualification of bodies corporate for appointment as liquidator), the acts of a liquidator are valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

537 Custody of company's property

- (1) When a winding-up order has been made, or where a provisional liquidator has been appointed, the liquidator or the provisional liquidator (as the case may be) shall take into his custody or under his control all the property and things in action to which the company is or appears to be entitled.
- (2) In a winding up by the court in Scotland, if and so long as there is no liquidator, all the property of the company is deemed to be in the custody of the court.

538 Vesting of company property in liquidator

- (1) When a company is being wound up by the court, the court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name; and thereupon the property to which the order relates vests accordingly.
- (2) The liquidator may, after giving such indemnity (if any) as the court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the company and recovering its property.

539 Powers of liquidator

- (1) The liquidator in a winding up by the court has power, with the sanction either of the court or of the committee of inspection—
 - (a) to bring or defend any action or other legal proceeding in the name and on behalf of the company,
 - (b) to carry on the business of the company so far as may be necessary for its beneficial winding up,
 - (c) to appoint a solicitor to assist him in the performance of his duties,
 - (d) to pay any class of creditors in full,
 - (e) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the company, or whereby the company may be rendered liable.

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- (f) to compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it
- (2) The liquidator in a winding up by the court has the power—
- (a) to sell any of the company's property by public auction or private contract, with power to transfer the whole thereof to any person or to sell the same in parcels,
 - (b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents and for that purpose to use, when necessary, the company's seal,
 - (c) to prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors,
 - (d) to draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the company's liability as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business,
 - (e) to raise on the security of the assets of the company any money requisite,
 - (f) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot conveniently be done in the name of the company (and in all such cases the money due is deemed, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, to be due to the liquidator himself),
 - (g) to appoint an agent to do any business which the liquidator is unable to do himself,
 - (h) to do all such other things as may be necessary for winding up the company's affairs and distributing its assets.
- (3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section is subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.
- (4) In the case of a winding up in Scotland, the court may provide by order that the liquidator may, where there is no committee of inspection, exercise any of the powers mentioned in subsection (1)(a) or (b) without the sanction or intervention of the court
- (5) In a winding up by the court in Scotland, the liquidator has (subject to general rules), the same powers as a trustee on a bankrupt estate.

Provisions about liquidators applying in England and Wales only

540 Exercise and control of liquidator's powers

- (1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the court in England and Wales shall, in the administration of the company's assets and their distribution among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting or by the committee of inspection.
- (2) Directions given by the creditors or contributories at any general meeting are, in case of conflict, deemed to override any directions given by the committee of inspection.
- (3) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes; and it is his duty to summon meetings at such times as the creditors or contributories by resolution (either at the meeting appointing the liquidator or otherwise) may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories (as the case may be).
- (4) The liquidator may apply to the court (in the prescribed manner) for directions in relation to any particular matter arising in the winding up.
- (5) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.
- (6) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court; and the court may confirm, reverse or modify the act or decision complained of, and make such order in the case as it thinks just.

541 Books to be kept by liquidator

- (1) Every liquidator of a company which is being wound up by the court in England and Wales shall keep, in the prescribed manner, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed.
- (2) Any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

542 Payments by liquidator into bank

- (1) The following applies to a liquidator of a company which is being wound up by the court in England and Wales.
- (2) Subject to the next subsection, the liquidator shall, in such manner and at such times as the Secretary of State (with the concurrence of the Treasury) directs, pay the money received by him to the Insolvency Services Account at the Bank of England ; and the Secretary of State shall furnish him with a certificate of receipt of the money so paid.
- (3) However, if the committee of inspection satisfies the Secretary of State that for the purpose of carrying on the company's business or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account at any other bank, the Secretary of State shall, on the application of the committee of inspection, authorise the liquidator to make his

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payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

- (4) If the liquidator at any time retains for more than 10 days a sum exceeding £100 or such other amount as the Secretary of State in any particular case authorises him to retain, then unless he explains the retention to the Secretary of State's satisfaction, he shall pay interest on the amount so retained in excess at the rate of 20 per cent, per annum, and is liable to disallowance of all or such part of his remuneration as the Secretary of State thinks just, and to be removed from his office by the Secretary of State, and is liable to pay any expenses occasioned by reason of his default.
- (5) The liquidator shall not pay any sums received by him as liquidator into his private banking account.
- (6) The money sum for the time being specified in subsection (4) is subject to increase or reduction by regulations under section 664.

543 Submission of liquidator's accounts for audit.

- (1) The following applies in the case of a company which is being wound up by the court in England and Wales.
- (2) The liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Secretary of State (or as he directs) an account of his receipts and payments as liquidator.
- (3) The account shall be in the prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form; and the Secretary of State may cause the account to be audited.
- (4) The liquidator shall furnish the Secretary of State with such vouchers and information as he requires, and the Secretary of State may at any time require the production of, and inspect, any books or accounts kept by the liquidator.

This applies whether or not the Secretary of State decides to cause the account to be audited, and extends to production and inspection at the liquidator's premises.

- (5) After the account has been audited (or, as the case may be, forthwith if the Secretary of State decides not to have an audit) one copy of the account shall be filed by the Secretary of State, to be retained by him, and the other copy shall be delivered to the court for filing, each copy when filed to be open to inspection by any person on payment of the prescribed fee.
- (6) The liquidator shall, when the account has been audited (alternatively, when he has been notified of the Secretary of State's decision not to have an audit), cause the account, or a summary of it, to be printed, and shall send a printed copy by post to every creditor or contributory.

The Secretary of State may in any case dispense with compliance with this subsection.

544 Control of liquidators by Secretary of State.

- (1) The Secretary of State shall take cognizance of the conduct of liquidators of companies which are being wound up by the court in England and Wales; and—

- (a) if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules or otherwise with respect to the performance of his duties, or
 - (b) if any complaint is made to the Secretary of State by any creditor or contributory in regard thereto,the Secretary of State shall inquire into the matter, and take such action on it as he thinks expedient
- (2) The Secretary of State may at any time require the liquidator to answer any inquiry in relation to a winding up in which he is engaged and may, if the Secretary of State thinks fit, apply to the court to examine him or any other person on oath concerning the winding up.
- (3) The Secretary of State may also direct a local investigation to be made of the liquidator's books and vouchers.

545 Release of liquidators.

- (1) The following applies to the liquidator of a company which is being wound up by the court in England and Wales.
- (2) When the liquidator has realised all the company's property, or so much of it as can (in his opinion) be realised without needlessly protracting the liquidation, and has distributed a final dividend (if any) to the creditors, and adjusted the rights of the contributories among themselves, and made a final return (if any) to the contributories, or has resigned, or has been removed from his office, the following subsection has effect
- (3) The Secretary of State shall, on the liquidator's application, cause a report on the latter's accounts to be prepared and, on his complying with all the Secretary of State's requirements, shall take into consideration the report and any objection which may be urged by any creditor or contributory or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the High Court.
- (4) If the release of the liquidator is withheld, the court may, on the application of any creditor or contributory or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.
- (5) An order of the Secretary of State releasing the liquidator discharges him from all liability in respect of any act done or default made by him in the administration of the company's affairs or otherwise in relation to his conduct as liquidator; but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.
- (6) If the liquidator has not previously resigned or been removed, his release operates as removal of him from his office.

Committees of inspection

546 Decision whether committee of inspection to be appointed.

- (1) When a winding-up order has been made by the court in England and Wales, and separate meetings of creditors and contributories have been summoned for the purpose of determining whether an application should be made to the court for the appointment of a liquidator in place of the official receiver, it is the business of those meetings to determine further whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be members of the committee if appointed.
- (2) In Scotland, when a winding-up order has been made by the court, the liquidator shall summon separate meetings of the company's creditors and contributories for the purpose of determining whether or not an application is to be made to the court for the appointment of a committee of inspection and who are to be the members of the committee if appointed.

However, if the winding-up order has been made on the ground that the company is unable to pay its debts, it is not necessary for the liquidator to summon a meeting of the contributories.

- (3) The court may make the appointment and order required to give effect to such determination ; and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters referred to above, the court shall decide the difference and make such order on those matters as the court may think fit.

547 Constitution and proceedings of committee of inspection

- (1) Subject as follows, the committee of inspection (if appointed) shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories or as, in case of difference, may be determined by the court
- (2) In Scotland—
 - (a) if a winding-up order has been made on the ground that the company is unable to pay its debts, the committee shall consist of creditors or persons holding general powers of attorney from creditors, and
 - (b) the committee has, in addition to the powers and duties conferred and imposed on it by this Act, such of the powers and duties of commissioners on a bankrupt estate as may be conferred and imposed on committees of inspection by general rules.
- (3) Schedule 17 has effect with respect to the committee of inspection and its proceedings.

548 Power of Secretary of State to act in place of committee

If in the case of a winding up in England and Wales there is no committee of inspection, the Secretary of State may, on the application of the liquidator, do any act or thing or give any direction or permission which is by this Act authorised or required to be done or given by the committee.

General powers of court in case of winding up by the court

549 Power to stay or sist winding up

- (1) The court may at any time after an order for winding up, on the application either of the liquidator or the official receiver or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in the winding up ought to be stayed or sisted, make an order staying or sisting the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.
- (2) The court may, before making an order, require the official receiver to furnish to the court a report with respect to any facts or matters which are in his opinion relevant to the application.
- (3) A copy of every order made under this section shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall enter it in his records relating to the company.

550 Settlement of list of contributories and application of assets

- (1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the company's assets to be collected, and applied in discharge of its liabilities.
- (2) If it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.
- (3) In settling the list, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

551 Delivery of property to liquidator

The court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories and any trustee, receiver, banker, agent or officer of the company to pay, deliver, convey, surrender or transfer forthwith (or within such time as the court directs) to the liquidator any money, property or books and papers in his hands to which the company is prima facie entitled.

552 Debts due from contributory to company

- (1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him (or from the estate of the person whom he represents) to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act
- (2) The court in making such an order may—
 - (a) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit and

- (b) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.
- (3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

553 Power to make calls

- (1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the company's assets, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the company's debts and liabilities, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.
- (2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay it

554 Payment into bank of money due to company

- (1) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the amount due into the Bank of England (or any branch of it) to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.
- (2) All money and securities paid or delivered into the Bank of England (or branch) in the event of a winding up by the court are subject in all respects to the orders of the court.

555 Order on contributory to be conclusive evidence

- (1) An order made by the court on a contributory is conclusive evidence that the money (if any) thereby appearing to be due or ordered to be paid is due, but subject to any right of appeal.
- (2) All other pertinent matters stated in the order are to be taken as truly stated as against all persons and in all proceedings, except proceedings in Scotland against the heritable estate of a deceased contributory; and in that case the order is only prima facie evidence for the purpose of charging his heritable estate, unless his heirs or legatees of heritage were on the list of contributories at the time of the order being made.

556 Appointment of special manager (England and Wales)

- (1) Where in proceedings in England and Wales the official receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the company's estate or business, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business other than himself, apply to the court.
- (2) The court may on the application appoint a special manager of the company's estate or business to act during such time as the court may direct, with such powers (including any of the powers of a receiver or manager) as may be entrusted to him by the court.

- (3) The special manager shall give such security and account in such manner as the Secretary of State directs, and shall receive such remuneration as may be fixed by the court.

557 Power to exclude creditors not proving in time

The court may fix a time or times within which creditors are to prove their debts or claims or to be excluded from the benefit of any distribution made before those debts are proved.

558 Adjustment of rights of contributories

The court shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled to it

559 Inspection of books by creditors and contributories

- (1) The court may, at any time after making a winding-up order, make such order for inspection of the company's books and papers by creditors and contributories as the court thinks just; and any books and papers in the company's possession may be inspected by creditors and contributories accordingly, but not further or otherwise.
- (2) Nothing in this section excludes or restricts any statutory rights of a government department or person acting under the authority of a government department.

560 Costs of winding up may be made payable out of assets

The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the court thinks just

561 Summoning of persons suspected of having company property, etc.

- (1) The court may, at any time after the appointment of a provisional liquidator or the making of a winding-up order, summon before it any officer of the company or any person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the company.
- (2) The court may examine the officer or other person summoned on oath concerning those matters either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.
- (3) The court may require him to produce any books and papers in his custody or power relating to the company; but if he claims any lien on books or papers produced by him, the production is without prejudice to that lien, and the court has jurisdiction in the winding up to determine all questions relating to that lien.
- (4) If a person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting and allowed by it), the court may cause him to be apprehended and brought before the court for examination.

562 Attendance at company meetings (Scotland)

In the winding up by the court of a company registered in Scotland, the court has power to require the attendance of any officer of the company at any meeting of creditors or of contributories, or of a committee of inspection, for the purpose of giving information as to the trade, dealings, affairs or property of the company.

563 Public examination of promoters and officers (England and Wales.)

- (1) Where an order has been made in England and Wales for winding up a company by the court, and the official receiver has made a further report under this Act stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any officer of the company in relation to it since its formation, the following applies.
- (2) The court may, after consideration of the report, direct (hat that person or officer shall attend before the court on a day appointed by the court for that purpose and be publicly examined as to the promotion or formation of the company, or the conduct of its business, or as to the conduct or dealings of that person as an officer of it.
- (3) The official receiver shall take part in the examination and for that purpose may, if specially authorised by the Secretary of State in that behalf, employ a solicitor with or without counsel.
- (4) The liquidator (where the official receiver is not the liquidator) and any creditor or contributory may also take part in the examination either personally or by solicitor or counsel.

564 Procedure under s. 563

- (1) On a public examination ordered by the court under section 563, the court may put such questions to the person examined as it thinks fit.
- (2) The person examined shall be examined on oath and shall answer all such questions as the court may put or allow to be put to him.
- (3) The person shall at his own cost, before his examination, be furnished with a copy of the official receiver's report, and may at his own cost employ a solicitor with or without counsel, who is at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him.
- (4) If the person applies to the court to be exculpated from any charges made or suggested against him, it is the duty of the official receiver to appear on the bearing of the application and call the court's attention to any matters which appear to him to be relevant; and if the court, after hearing evidence given or witnesses called by the official receiver, grants the application, the court may allow the applicant such costs as in its discretion it thinks fit.
- (5) Notes of a person's public examination shall be taken down in writing, and shall be read over to or by, and signed by, him and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.
- (6) The court may, if it thinks fit, adjourn the examination from time to time.

- (7) The examination may, if the court so directs (and subject to general rules) be held before any Circuit judge, or before any officer of the Supreme Court being an official referee, master or registrar in bankruptcy, or before a district registrar of the High Court named for the purpose by the Lord Chancellor; and the powers of the court under this section may be exercised by the person before whom the examination is held.

565 Power to arrest absconding contributory

The court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the United Kingdom or otherwise to abscond or to remove or conceal any of his property for the purpose of evading payment of calls or of avoiding examination respecting the company's affairs, may cause the contributory to be arrested and his books and papers and movable personal property to be seized and him and them to be kept safely until such time as the court may order.

566 Powers of court to be cumulative

Powers conferred by this Act on the court are in addition to and not in restriction of any existing powers of instituting proceedings against a contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

567 Delegation of powers to liquidator (England and Wales)

- (1) Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the court in England and Wales by this Act in respect of the following matters—
- (a) the holding and conducting of meetings to ascertain the wishes of creditors and contributories,
 - (b) the settling of lists of contributories and the rectifying of the register of members where required, and the collection and application of the assets,
 - (c) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator.
 - (d) the making of calls,
 - (e) the fixing of a time within which debts and claims must be proved,
- to be exercised or performed by the liquidator as an officer of the court, and subject to the court's control.
- (2) But the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either that special leave or the sanction of the committee of inspection.

568 Dissolution of company

- (1) When the company's affairs have been completely wound up, the court (if the liquidator makes an application in that behalf) shall make an order that the company be dissolved from the date of the order, and the company is then dissolved accordingly.
- (2) A copy of the order shall within 14 days from its date be forwarded by the liquidator to the registrar of companies who shall record the company's dissolution.

- (3) If the liquidator makes default in complying with the requirements of subsection (2), he is liable to a fine and, for continued contravention, to a daily default fine.

Enforcement of, and appeal from, orders

569 Orders for calls on contributories (Scotland)

- (1) In Scotland, where an order, interlocutor or decree has been made for winding up a company by the court, it is competent to the court, on production by the liquidators of a list certified by them of the names of the contributories liable in payment of any calls, and of the amount due by each contributory, and of the date when that amount became due, to pronounce forthwith a decree against those contributories for payment of the sums so certified to be due, with interest from that date until payment (at 5 per cent, per annum) in the same way and to the same effect as if they had severally consented to registration for execution, on a charge of 6 days, of a legal obligation to pay those calls and interest.
- (2) The decree may be extracted immediately, and no suspension of it is competent, except on caution or consignation, unless with special leave of the court.

570 Enforcement throughout United Kingdom of orders made in winding up

- (1) An order made by the court in England and Wales for or in the course of winding up a company shall be enforced in Scotland and Northern Ireland in the courts that would respectively have jurisdiction in respect of that company if registered in Scotland or Northern Ireland and in the same manner in all respects as if the order had been made by those courts.
- (2) Orders, interlocutors and decrees made by the court in Scotland for or in the course of winding up a company shall in like manner be enforced in England and Wales and Northern Ireland by any court which would respectively have jurisdiction in respect of that company if registered in that part of the United Kingdom where the order is required to be enforced, and in the same manner in all respects as if the order had been made by that court.
- (3) Where an order, interlocutor or decree made by one court is required to be enforced by another court, an office copy of it shall be produced to the proper officer of the court required to enforce it
- (4) The production of an office copy is sufficient evidence of the order, interlocutor or decree; and thereupon the last-mentioned court shall take the requisite steps in the matter for enforcing it in the same manner as if it had been made by that court
- (5) This section extends to Northern Ireland.

571 Appeals from orders in Scotland

- (1) Subject to the provisions of this section and to rules of court, an appeal from any order or decision made or given in the winding up of a company by the court in Scotland under this Act lies in the same manner and subject to the same conditions as an appeal from an order or decision of the court in cases within its ordinary jurisdiction.

- (2) In regard to orders or judgments pronounced by the judge acting as vacation judge in pursuance of section 4 of the Administration of Justice (Scotland) Act 1933—
 - (a) none of the orders specified in Part I of Schedule 16 to this Act are subject to review, reduction, suspension or stay of execution, and
 - (b) every other order or judgment (except as mentioned below) may be submitted to review by the Inner House by reclaiming motion enrolled within 14 days from the date of the order or judgment.
- (3) However, an order being one of those specified in Part II of the Schedule shall, from the date of the order and notwithstanding that it has been submitted to review as above, be carried out and receive effect until the Inner House have disposed of the matter.
- (4) In regard to orders or judgments pronounced in Scotland by a Lord Ordinary before whom proceedings in a winding up are being taken, any such order or judgment may be submitted to review by the Inner House by reclaiming motion enrolled within 14 days from its date; but should it not be so submitted to review during session, the provisions of this section in regard to orders or judgments pronounced by the judge acting as vacation judge apply.
- (5) Nothing in this section affects provisions of this Act in reference to decrees in Scotland for payment of calls in the winding up of companies, whether voluntary or by, or subject to the supervision of, the court

CHAPTER III

VOLUNTARY WINDING UP

Resolutions for, and commencement of, voluntary winding up

572 Circumstances in which company may be wound up voluntarily

- (1) A company may be wound up voluntarily—
 - (a) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring it to be wound up voluntarily;
 - (b) if the company resolves by special resolution that it be wound up voluntarily ;
 - (c) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.
- (2) In this Act the expression " a resolution for voluntary winding up " means a resolution passed under any of the paragraphs of subsection (1).
- (3) A resolution passed under paragraph (a) of subsection (1), as well as a special resolution under paragraph (b) and an extraordinary resolution under paragraph (c), is subject to section 380 (copy of resolution to be forwarded to registrar of companies within 15 days).

573 Notice of resolution to wind up voluntarily

- (1) When a company has passed a resolution for voluntary winding up, it shall, within 14 days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette.
- (2) If default is made in complying with this section, the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

For purposes of this subsection the liquidator is deemed an officer of the company.

574 Commencement of voluntary winding up

A voluntary winding up is deemed to commence at the time of the passing of the resolution for voluntary winding up.

Consequences of voluntary winding up

575 Effect on business and status of company

- (1) In case of a voluntary winding up, the company shall from the commencement of the winding up cease to carry on its business, except so far as may be required for its beneficial winding up.
- (2) However, the corporate state and corporate powers of the company, notwithstanding anything to the contrary in its articles, continue until the company is dissolved.

576 Avoidance of share transfers, etc., after winding up resolution

Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the company's members, made after the commencement of a voluntary winding up is void.

Declaration of solvency

577 Statutory declaration of solvency

- (1) Where it is proposed to wind up a company voluntarily, the directors (or, in the case of a company having more than two directors, the majority of them) may at a directors' meeting make a statutory declaration to the effect that they have made a full inquiry into the company's affairs and that, having done so, they have formed the opinion that the company will be able to pay its debts in full within such period, not exceeding 12 months from the commencement of the winding up, as may be specified in the declaration.
- (2) Such a declaration by the directors has no effect for purposes of this Act unless—
 - (a) it is made within the 5 weeks immediately preceding the date of the passing of the resolution for winding up, or on that date but before the passing of the resolution, and
 - (b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the making of the declaration.

- (3) The declaration shall be delivered to the registrar of companies before the expiration of 15 days immediately following the date on which the resolution for winding up is passed.
- (4) A director making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full within the period specified is liable to imprisonment or a fine, or both.
- (5) If the company is wound up in pursuance of a resolution passed within 5 weeks after the making of the declaration, and its debts are not paid or provided for in full within the period specified, it is to be presumed (unless the contrary is shown) that the director did not have reasonable grounds for his opinion.
- (6) If a declaration required by subsection (3) to be delivered to the registrar is not so delivered within the time prescribed by that subsection, the company and every officer in default is liable to a fine and, for continued contravention, to a daily default fine.

578 Distinction between " members' " and " creditors'" voluntary winding up

A winding up in the case of which a directors' statutory declaration under section 577 has been made is a " members' voluntary winding up "; and a winding up in the case of which such a declaration has not been made is a " creditors' voluntary winding up ".

Provisions applicable to a members' voluntary winding up

579 Introduction to next 7 sections

The provisions contained in sections 580 to 586 apply in relation to a members' voluntary winding up.

580 Company's power to appoint and fix remuneration of liquidator

- (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the company's affairs and distributing its assets, and may fix the remuneration to be paid to him or them.
- (2) On the appointment of a liquidator all the powers of the directors cease, except so far as the company in general meeting or the liquidator sanctions their continuance.

581 Power to fill vacancy in office of liquidator

- (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.
- (2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.
- (3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

582 Liquidator accepting shares as consideration for sale of company property

- (1) The following applies where a company is proposed to be, or is being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (" the transferee company "), whether or not this latter is a company within the meaning of this Act.
- (2) The liquidator of the company to be, or being, wound up (" the transferor company ") may, with the sanction of a special resolution of that company, conferring either a general authority on himself or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company for distribution among the members of the transferor company.
- (3) Alternatively, the liquidator may (with that sanction) enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interests (or in addition thereto), participate in the profits of, or receive any other benefit from, the transferee company.
- (4) A sale or arrangement in pursuance of this section is binding on members of the transferor company.
- (5) If a member of the transferor company who did not vote in favour of the special resolution expresses his dissent from it in writing addressed to the liquidator, and left at the company's registered office within 7 days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.
- (6) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved and be raised by the liquidator in such manner as may be determined by special resolution.
- (7) A special resolution is not invalid for purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators ; but, if an order is made within a year for winding up the company by or subject to the supervision of the court, the special resolution is not valid unless sanctioned by the court.
- (8) For purposes of an arbitration under this section, the provisions of the Companies Clauses Consolidation Act 1845 or, in the case of a winding up in Scotland, the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the settlement of disputes by arbitration are incorporated with this Act, and—
 - (a) in the construction of those provisions this Act is deemed the special Act and " the company " means the transferor company, and
 - (b) any appointment by the incorporated provisions directed to be made under the hand of the secretary or any two of the directors may be made in writing by the liquidator (or, if there is more than one liquidator, then any two or more of them).

583 Creditors' meeting in case of insolvency

- (1) If the liquidator is at any time of opinion that the company will not be able to pay its debts in full within the period stated in the directors' declaration under section 577, he

shall forthwith summon a meeting of the creditors, and shall lay before the meeting a statement of the company's assets and liabilities.

- (2) If the liquidator fails to comply with this section, he is liable to a fine.

584 General company meeting at each year's end

- (1) Subject to section 586, in the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Secretary of State may allow, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

- (2) If the liquidator fails to comply with this section, he is liable to a fine.

585 Final meeting and dissolution

- (1) As soon as the company's affairs are fully wound up, the liquidator shall make up an account of the winding up, showing how it has been conducted and the company's property has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving an explanation of it
- (2) The meeting shall be called by advertisement in the Gazette, specifying its time, place and object and published at least one month before the meeting.
- (3) Within one week after the meeting, the liquidator shall send to the registrar of companies a copy of the account, and shall make a return to him of the holding of the meeting and of its date; and if the copy is not sent or the return is not made in accordance with this subsection the liquidator is liable to a fine and, for continued contravention, to a daily default fine.
- (4) If a quorum is not present at the meeting, the liquidator shall, in lieu of the return mentioned above, make a return that the meeting was duly summoned and that no quorum was present; and upon such a return being made, the provisions of subsection (3) as to the making of the return are deemed complied with.
- (5) The registrar on receiving the account and either of these returns shall forthwith register them, and on the expiration of 3 months from the registration of the return the company is deemed to be dissolved; but the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.
- (6) It is the duty of the person on whose application an order of the court under this section is made within 7 days after the making of the order to deliver to the registrar an office copy of the order for registration; and if that person fails to do so he is liable to a fine and, for continued contravention, to a daily default fine.
- (7) If the liquidator fails to call a general meeting of the company as required by subsection (1), he is liable to a fine.

586 Alternative provision as to company meetings in case of insolvency

- (1) Where section 583 has effect, sections 594 and 595 apply to the winding up to the exclusion of sections 584 and 585, as if the winding up were a creditors' voluntary winding up and not a members' voluntary winding up.
- (2) However, the liquidator is not required to summon a meeting of creditors under section 594 at the end of the first year from the commencement of the winding up, unless the meeting held under section 583 is held more than 3 months before the end of that year.

Provisions applicable to a creditors' voluntary winding up

587 Introduction to next 8 sections

The provisions contained in sections 588 to 595 apply in relation to a creditors' voluntary winding up.

588 Meeting of creditors

- (1) The company shall give at least 7 days' notice of the company meeting at which the resolution for voluntary winding up is to be proposed.

This applies notwithstanding any power of the members, or of any particular majority of the members, to exclude or waive any other requirement of this Act or the company's articles with respect to the period of notice to be given of any company meeting.

- (2) The company shall in addition—
 - (a) cause a meeting of its creditors to be summoned for the day, or the day next following the day, on which the company meeting is to be held,
 - (b) cause the notices of the creditors' meeting to be sent by post to the creditors simultaneously with the sending of the notices of the company meeting, and
 - (c) cause notice of the creditors' meeting to be advertised once in the Gazette and once at least in two local newspapers circulating in the district in which the company's registered office or its principal place of business is situated.
- (3) The directors of the company shall—
 - (a) cause a full statement of the position of the company's affairs, together with a list of its creditors and the estimated amount of their claims, to be laid before the creditors' meeting, and
 - (b) appoint one of their number to preside at the meeting;and it is the duty of the director so appointed to attend the meeting and preside at it.
- (4) If the company meeting at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the creditors' meeting held under subsection (2) has effect as if it had been passed immediately after the passing of the resolution for voluntary winding up.
- (5) If default is made—
 - (a) by the company in complying with subsections (1) and (2),
 - (b) by the directors in complying with subsection (3),

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

- (c) by any director in complying with that subsection, so far as requiring him to attend and preside at the creditors' meeting,
- the company, the directors or the director (as the case may be) is or are liable to a fine; and, in the case of default by the company, every officer of the company who is in default is also so liable.
- (6) Failure to give notice of the company meeting as required by subsection (1) does not affect the validity of any resolution passed or other thing done at that meeting which would be valid apart from that subsection.

589 Appointment of liquidator

- (1) The creditors and the company at their respective meetings mentioned in section 588 may nominate a person to be liquidator for the purpose of winding up the company's affairs and distributing its assets.
- (2) If the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator; and if no person is nominated by the creditors the person (if any) nominated by the company shall be liquidator.
- (3) In the case of different persons being nominated, any director, member or creditor of the company may, within 7 days after the date on which the nomination was made by the creditors, apply to the court for an order either—
- (a) directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or
 - (b) appointing some other person to be liquidator instead of the person nominated by the creditors.

590 Appointment of committee of inspection

- (1) The creditors at the meeting to be held under section 588 or at any subsequent meeting may, if they think fit, appoint a committee of inspection consisting of not more than 5 persons.
- (2) If such a committee is appointed, the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee, not exceeding 5.
- (3) However, the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection : and if the creditors so resolve—
- (a) the persons mentioned in the resolution are not then, unless the court otherwise directs, qualified to act as members of the committee, and
 - (b) on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.
- (4) Schedule 17 has effect with respect to a committee of inspection appointed under this section and its proceedings.
- (5) In Scotland, such a committee has, in addition to the powers and duties conferred and imposed on it by this Act, such of the powers and duties of commissioners on

a bankrupt estate as may be conferred and imposed on committees of inspection by general rules.

591 Remuneration of liquidator; cesser of directors' powers

- (1) The committee of inspection or, if there is no such committee, the creditors may fix the remuneration to be paid to the liquidator or liquidators.
- (2) On the appointment of a liquidator, all the powers of the directors cease, except so far as the committee of inspection (or, if there is no such committee, the creditors) sanction their continuance.

592 Vacancy in office of liquidator

If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator (other than a liquidator appointed by, or by the direction of, the court), the creditors may fill the vacancy.

593 Application of s. 582 to creditors' voluntary winding up

Section 582 applies in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up, with the modification that the liquidator's powers under that section are not to be exercised except with the sanction either of the court or of the committee of inspection.

594 Meetings of company and creditors at end of each year

- (1) If the winding up continues for more than one year, the liquidator shall summon a general meeting of the company and a meeting of the creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Secretary of State may allow, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.
- (2) If the liquidator fails to comply with this section, he is liable to a fine.

595 Final meeting and dissolution

- (1) As soon as the company's affairs are fully wound up, the liquidator shall make up an account of the winding up, showing how it has been conducted and the company's property has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors for the purpose of laying the account before the meetings and giving an explanation of it.
- (2) Each such meeting shall be called by advertisement in the Gazette specifying the time, place and object of the meeting, and published at least one month before it.
- (3) Within one week after the date of the meetings (or, if they are not held on the same date, after the date of the later one) the liquidator shall send to the registrar of companies a copy of the account, and shall make a return to him of the holding of the meetings and of their dates.
- (4) If the copy is not sent or the return is not made in accordance with subsection (3), the liquidator is liable to a fine and, for continued contravention, to a daily default fine.

- (5) However, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return required by subsection (3), make a return that the meeting was duly summoned and that no quorum was present; and upon such return being made the provisions of that subsection as to the making of the return are, in respect of that meeting, deemed complied with.
- (6) The registrar on receiving the account and, in respect of each such meeting, either of the returns mentioned above, shall forthwith register them, and on the expiration of 3 months from their registration the company is deemed to be dissolved; but the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.
- (7) It is the duty of the person on whose application an order of the court under this section is made, within 7 days after the making of the order, to deliver to the registrar an office copy of the order for registration; and if that person fails to do so he is liable to a fine and, for continued contravention, to a daily default fine.
- (8) If the liquidator fails to call a general meeting of the company or a meeting of the creditors as required by this section, he is liable to a fine.

Provisions applicable to every voluntary winding up

596 Introduction to next 9 sections

The provisions of sections 597 to 605 apply to every voluntary winding up, whether a members' or a creditors' winding up.

597 Distribution of company's property

Subject to the provisions of this Act as to preferential payments, the company's property shall on the winding up be applied in satisfaction of the company's liabilities *pari passu* and, subject to that application, shall (unless the articles otherwise provide) be distributed among the members according to their rights and interests in the company.

598 Powers and duties of liquidator in voluntary winding up

- (1) The liquidator may—
 - (a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and
 - (b) in the case of a creditors' voluntary winding up, with the sanction of the court or the committee of inspection (or, if there is no such committee, a meeting of the creditors),exercise any of the powers given by paragraphs (d), (e) and (f) of section 539(1) to a liquidator in a winding up by the court.
- (2) The liquidator may, without sanction, exercise any of the other powers given by this Act to the liquidator in a winding up by the court.
- (3) The liquidator may—

- (a) exercise the court's power of settling a list of contributories (and the list of contributories is prima facie evidence of the liability of the persons named in it to be contributories),
 - (b) exercise the court's power of making calls,
 - (c) summon general meetings of the company for the purpose of obtaining its sanction by special or extraordinary resolution or for any other purpose he may think fit
- (4) The liquidator shall pay the company's debts and adjust the rights of the contributories among themselves.
- (5) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment or, in default of such determination, by any number not less than two.

599 Appointment or removal of liquidator by the court

- (1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.
- (2) The court may, on cause shown, remove a liquidator and appoint another.

600 Notice by liquidator of his appointment

- (1) The liquidator shall, within 14 days after his appointment, publish in the Gazette and deliver to the registrar of companies for registration a notice of his appointment in the form prescribed by statutory instrument made by the Secretary of State.
- (2) If the liquidator fails to comply with this section he is liable to a fine and, for continued contravention, to a daily default fine.

601 Arrangement when binding on creditors

- (1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors is (subject to the right of appeal under this section) binding—
- (a) on the company, if sanctioned by an extraordinary resolution, and
 - (b) on the creditors, if acceded to by three-fourths in number and value of them.
- (2) Any creditor or contributory may, within 3 weeks from the completion of the arrangement, appeal to the court against it; and the court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

602 Reference of questions and powers to court

- (1) The liquidator or any contributory or creditor may apply to the court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.
- (2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application

on such terms and conditions as it thinks fit or may make such other order on the application as it thinks just

- (3) A copy of an order made by virtue of this section staying the proceedings in the winding up shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall enter it in his records relating to the company.

603 Court's power to control proceedings (Scotland)

If the court, on the application of the liquidator in the winding up of a company registered in Scotland, so directs, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court and subject to such terms as the court may impose.

604 Costs of voluntary winding up

All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, are payable out of the company's assets in priority to all other claims.

605 Saving for rights of creditors and contributories

The winding up of a company under this Chapter does not bar the right of any creditor or contributory to have it wound up by the court; but in the case of an application by a contributory the court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.

CHAPTER IV

WINDING UP SUBJECT TO SUPERVISION OF COURT

606 Power to order winding up under supervision

When a company has passed a resolution for voluntary winding up, the court may make an order that the voluntary winding up shall continue but subject to such supervision of the court, and with such liberty for creditors, contributories or others to apply to the court, and generally on such terms and conditions, as the court thinks just.

607 Effect of petition for court supervision

A petition for the continuance of a voluntary winding up subject to the supervision of the court is deemed, for the purpose of giving jurisdiction to the court over actions, to be a petition for winding up by the court.

608 Application of ss. 522, 523

A winding up subject to the supervision of the court is deemed for the purposes of sections 522 and 523 (avoidance of dispositions of property, etc.) to be a winding up by the court.

609 Appointment and removal of liquidators

- (1) Where an order is made for a winding up subject to supervision, the court may by that or any subsequent order appoint an additional liquidator.
- (2) A liquidator so appointed has the same powers, is subject to the same obligations, and in all respects stands in the same position, as if he had been duly appointed in accordance with provisions of this Act with respect to the appointment of liquidators in a voluntary winding up.
- (3) The court may remove a liquidator so appointed by the court, or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

610 Effect of supervision order

- (1) Where an order is made for a winding up subject to supervision, the liquidator may (subject to any restrictions imposed by the court) exercise all his powers, without the court's sanction or intervention, in the same manner as if the company were being wound up altogether voluntarily.
- (2) However, the powers specified in paragraphs (d), (e) and (f) of section 539(1) shall not be exercised by the liquidator except with the sanction of the court or, in a case where before the order the winding up was a creditors' voluntary winding up, with the sanction of the court or the committee of inspection or (if there is no such committee) a meeting of the creditors.
- (3) A winding up subject to the supervision of the court is not a winding up by the court for the purposes of the provisions of this Act specified in Schedule 18, nor for those of section 491 (power in England and Wales to appoint official receiver as receiver for debenture holders or creditors); but, subject to this, an order for a winding up subject to supervision is deemed to be for all purposes an order for winding up by the court.
- (4) But where the order for winding up subject to supervision was made in relation to a creditors' voluntary winding up in which a committee of inspection had been appointed, the order is deemed an order for winding up by the court for the purposes of section 547(2)(b) and Schedule 17, except in so far as the operation of those provisions is excluded in a voluntary winding up by general rules.

CHAPTER V

PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP

Proof and ranking of claims

611 Debts of all descriptions may be proved

- (1) In every winding up (subject, in the case of insolvent companies, to the application in accordance with this Act of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, are admissible to proof against the company.

- (2) A just estimate is to be made (so far as possible) of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

612 Application of bankruptcy rules (England and Wales)

- (1) In the winding up of an insolvent company registered in England and Wales the same rules prevail and are to be observed with regard to the respective rights of secured and unsecured creditors, and to debts provable and to the valuation of annuities and future and contingent liabilities, as are in force for the time being under the law of bankruptcy in England and Wales with respect to the estates of persons adjudged bankrupt
- (2) All those who in any such case would be entitled to prove for and receive dividends out of the company's assets may come in under the winding up and make such claims against the company as they respectively are entitled to by virtue of this section.

613 Ranking of claims (Scotland)

- (1) In the winding up of a company registered in Scotland, the following provisions of the Bankruptcy (Scotland) Act 1913—
 - (a) sections 45 to 62 regarding voting and ranking for payment of dividends,
 - (b) section 96 (reckoning of majorities), and
 - (c) section 105 (interruption of prescription),apply, so far as is consistent with this Act, in like manner as they apply in the sequestration of a bankrupt's estate, with the substitutions specified below, and with any other necessary modifications.
- (2) The substitutions to be made in those sections of the Act of 1913 are as follows—
 - (a) for references to sequestration, substitute references to winding up,
 - (b) for references to the sheriff, substitute references to the court,
 - (c) for references to the trustee, substitute references to the liquidator, and
 - (d) for references to the bankrupt, substitute references to the company.

614 Preferential payments

- (1) In a winding up the preferential debts listed in Schedule 19 shall be paid in priority to all other debts, but with the exceptions and reservations specified in that Schedule.
- (2) The preferential debts shall—
 - (a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions, and
 - (b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.
- (3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the preferential debts shall be discharged forthwith so far as the assets are sufficient to meet them; and in the case of the debts to which priority is given by

paragraph 8 of Schedule 19 (social security payments), formal proof of them is not required except in so far as is otherwise provided by general rules.

- (4) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within 3 months next before the date of a winding-up order, the preferential debts are a first charge on the goods or effects so distrained on, or the proceeds of their sale; but in respect of any money paid under such a charge, the landlord or other person has the same rights of priority as the person to whom the payment is made.

Effect of winding up on antecedent and other transactions

615 Fraudulent preference

- (1) Any conveyance, mortgage, delivery of goods, payment, execution or other act relating to property made or done by or against a company within 6 months before the commencement of its winding up which, had it been made or done by or against an individual within 6 months before the presentation of a bankruptcy petition on which he is adjudged bankrupt, would be deemed in his bankruptcy a fraudulent preference, is in the event of the company being wound up deemed a fraudulent preference of its creditors and invalid accordingly.
- (2) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors is void to all intents.
- (3) In the application of this section to Scotland, " bankruptcy petition " means petition for sequestration.

616 Liabilities and rights of those fraudulently preferred (England and Wales)

- (1) Where in the case of a company wound up in England and Wales anything made or done is void under section 615 as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then (without prejudice to any rights or liabilities arising apart from this provision) the person preferred is subject to the same liabilities, and has the same rights, as if he had undertaken to be personally liable as surety for the debt to the extent of the charge on the property or the value of his interest, whichever is the less.
- (2) The value of the person's interest is determined as at the date of the transaction constituting the fraudulent preference, and as if the interest were free of all incumbrances other than those to which the charge for the company's debt was then subject.
- (3) On an application made to the court with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the court has jurisdiction to determine any question with respect to the payment arising between the person to whom the payment was made and the surety or guarantor, and to grant relief in respect of it.
- (4) The court's jurisdiction under subsection (3) is exercisable notwithstanding that the determination of the question is not necessary for the purposes of the winding up; and the court may for the purposes of that subsection give leave to bring in the surety or guarantor as a third party as in the case of an action for the recovery of the sum paid.

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- (5) Subsections (3) and (4) apply, with the necessary modifications, in relation to transactions other than the payment of money as they apply in relation to payments.

617 Effect of floating charge

- (1) Where a company is being wound up, a floating charge on its undertaking or property created within 12 months of the commencement of the winding up is invalid (unless it is proved that the company immediately after the creation of the charge was solvent), except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount.
- (2) Interest under this section is at the rate of 5 per cent, per annum or such other rate as may for the time being be prescribed by order of the Treasury in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Where a company is being wound up in Scotland, a floating charge over all or any part of its property is not to be held an alienation or preference voidable by statute (other than by the provisions of this section) or at common law on the ground of insolvency or notour bankruptcy.

618 Disclaimer of onerous property (England and Wales)

- (1) Where any part of the property of a company which is being wound up consists of land (of any tenure) burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding its possessor to the performance of any onerous act or to the payment of any sum of money, the liquidator may, with the leave of the court and subject to the provisions of this section and the next, disclaim the property.
- (2) The power to disclaim is exercisable notwithstanding that the liquidator has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation to it; and the disclaimer must be in writing signed by him.
- (3) The power is exercisable at any time within 12 months after the commencement of the winding up or such extended period as may be allowed by the court; but where any such property has not come to the liquidator's knowledge within one month after the commencement of the winding up, he may disclaim at any time within 12 months after he has become aware of it or such extended period as may be so allowed.
- (4) The disclaimer operates to determine, as from the date of disclaimer, the rights, interests and liabilities of the company, and the company's property, in or in respect of the property disclaimed; but it does not (except so far as is necessary for the purpose of releasing the company and its property from liability) affect the rights or liabilities of any other person.
- (5) This section does not apply in the case of a winding up in Scotland.

619 Further provisions about disclaimer under s. 618

- (1) The court, before or on granting leave to disclaim under section 618, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter, as the court thinks just.

- (2) The liquidator is not entitled to disclaim property under section 618 in a case where application in writing has been made to him by persons interested in the property requiring him to decide whether he will or will not disclaim and he has not within 28 days after the receipt of the application (or such further period as may be allowed by the court) given notice to the applicant that he intends to apply to the court for leave to disclaim.
- (3) In the case of a contract, if the liquidator after such an application does not within that period or further period disclaim the contract, the company is deemed to have adopted it.
- (4) The court may, on the application of a person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just; and any damages payable under the order to such a person may be proved by him as a debt in the winding up.
- (5) The court may, on an application by a person who either claims an interest in disclaimed property or is under a liability not discharged by this Act in respect of disclaimed property, and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or its delivery to any persons entitled to it, or to whom it may seem just that the property should be delivered by way of compensation for such liability, or a trustee for him, and on such terms as the court thinks just
- (6) On such a vesting order being made, the property comprised in it vests accordingly in the person named in that behalf in the order, without conveyance or assignment for that purpose.
- (7) Part I of Schedule 20 has effect for the protection of third parties where the property disclaimed is of a leasehold nature.
- (8) A person injured by the operation of a disclaimer under section 618 and this section is deemed a creditor of the company to the amount of the injury, and may accordingly prove the debt in the winding up.

620 Liability for rentcharge on company's land after disclaimer

- (1) Where on a disclaimer under section 618 land in England and Wales vests subject to a rentcharge in the Crown or any other person, that does not impose on the Crown or that other person, or on its or his successors in title, any personal liability in respect of the rentcharge.
- (2) But this section does not affect any liability in respect of sums accruing due after the Crown or other person, or some person claiming through or under it or him, has taken possession or control of the land or has entered into occupation of it.
- (3) This section applies to land whenever vesting, and to sums whenever accrued.

621 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

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in the winding up 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—
- (a) an execution against goods is completed by seizure and sale, or by the making of a charging order under section 1 of the 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.

622 Duties of sheriff where goods seized in execution (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 judgment for a sum exceeding £250 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 regulations under section 664; but no increase or reduction of it affects any case where the goods are sold, or the payment to avoid sale is made, before the coming into force of the increase or reduction.
- (8) This section does not apply in the case of a winding up in Scotland.

623 Effect of diligence within 60 days of winding up

- (1) The following applies in the case of the winding up of a company registered in Scotland.
- (2) The winding up is equivalent as at the date of its commencement, to an arrestment in execution and decree of furthcoming, and to an executed or completed pouding; and—
 - (a) no arrestment or pouding of the funds or effects of the company executed on or after the 60th day prior to that date is effectual, and
 - (b) those funds or effects (or their proceeds if sold) shall be made forthcoming to the liquidator:

But any arrester or poudner before that date who is thus deprived of the benefit of his diligence has preference out of those funds or effects for the expense bona fide incurred by him in the diligence.

- (3) As at the date of its commencement, the winding up is equivalent to a decree of adjudication of the heritable estates of the company for the payment of its whole debts, principal and interest, accumulated at that date, subject to such preferable heritable rights and securities as existed at that date and are valid and unchallengeable, and the right to poud the ground provided below in this section.
- (4) Sections 108 to 113 and 116 of the Bankruptcy (Scotland) Act 1913 apply (so far as is consistent with this Act) to the realisation of heritable estates affected by such heritable rights and securities as are mentioned above ; and for the purposes of this Act those sections are modified as follows—
 - (a) " sequestration " and " trustee " mean respectively " winding up " and " liquidator ", and
 - (b) " the Lord Ordinary or the court " means " the court " as defined by this Act with respect to Scotland.
- (5) No pouding of the ground which has not been carried into execution by sale of the effects 60 days before the date of commencement of the winding up is available (except to the extent provided below) in any question with the liquidator.

However, no creditor who holds a security over the heritable estate preferable to the right of the liquidator is prevented from executing a pouding of the ground after that date; but that pouding is, in competition with the liquidator, available only for interest on the debt for the current half-yearly term, and for arrears of interest for one year immediately before the commencement of that term.

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- (6) 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 as in the case of one registered in Scotland.

*Offences of fraud, deception, etc., before and in course
of winding up; fraudulent trading and its consequences*

624 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,
 - (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 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 regulations under section 664.

625 Transactions in fraud of creditors

- (1) When a company is ordered to be wound up by the court or passes a resolution for voluntary winding up, a person is deemed to have committed an offence if he, being at the time an officer of the company—
- (a) with intent to defraud creditors of the company, has made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the levying of any execution against, the company's property, or
 - (b) with that intent, has concealed or removed any part of the company's property since, or within 2 months before, the date of any unsatisfied judgment or order for the payment of money obtained against the company.
- (2) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.

626 Misconduct in course of winding up

- (1) When a company is being wound up, whether by or under the supervision of the court or voluntarily, any person, being a past or present officer of the company, commits an offence if he—
- (a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the company's property, and how and to whom and for what consideration and when the company disposed of any part of that property (except such part as has been disposed of in the ordinary way of the company's business), or
 - (b) does not deliver up to the liquidator (or as he directs) all such part of the company's property as is in his custody or under his control, and which he is required by law to deliver up, or
 - (c) does not deliver up to the liquidator (or as he directs) all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up, or
 - (d) knowing or believing that a false debt has been proved by any person in the winding up, fails for the period of a month to inform the liquidator of it, or
 - (e) after the commencement of the winding up, prevents the production of any book or paper affecting or relating to the company's property or affairs.
- (2) Such a person commits an offence if after the commencement of the winding up he attempts to account for any part of the company's property by fictitious losses or expenses; and he is deemed to have committed that offence if he has so attempted at any meeting of the company's creditors within the 12 months immediately preceding the commencement of the winding up.
- (3) For purposes of this section, " officer " includes a shadow director.
- (4) It is a defence—
- (a) for a person charged under paragraph (a), (b) or (c) of subsection (1) to prove that he had no intent to defraud, and
 - (b) for a person charged under paragraph (e) of that subsection to prove that he had no intent to conceal the state of affairs of the company or to defeat the law.

- (5) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.

627 Falsification of company's books

- (1) When a company is being wound up, an officer or contributory of the company commits an offence if he destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the company with intent to defraud or deceive any person.
- (2) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.

628 Material omissions from statements relating to company affairs

- (1) When a company is being wound up, whether by or under the supervision of the court or voluntarily, any person, being a past or present officer of the company, commits an offence if he makes any material omission in any statement relating to the company's affairs.
- (2) When a company has been ordered to be wound up by the court, or has passed a resolution for voluntary winding up, any such person is deemed to have committed that offence if, prior to the winding up, he has made any material omission in any such statement.
- (3) For purposes of this section, " officer" includes a shadow director.
- (4) It is a defence for a person charged under this section to prove that he had no intent to defraud.
- (5) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.

629 False representations to creditors

- (1) When a company is being wound up, whether by or under the supervision of the court or voluntarily, any person, being a past or present officer of the company—
- (a) commits an offence if he makes any false representation or commits any other fraud for the purpose of obtaining the consent of the company's creditors or any of them to an agreement with reference to the company's affairs or to the winding up, and
 - (b) is deemed to have committed that offence if, prior to the winding up, he has made any false representation, or committed any other fraud, for that purpose.
- (2) For purposes of this section, " officer" includes a shadow director.
- (3) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.

630 Responsibility of individuals for company's fraudulent trading

- (1) If in the course of the winding up of a company it appears that any business of the company has been carried on with intent to defraud creditors of the company or creditors of any other person, or for any fraudulent purpose, the following has effect.
- (2) The court, on the application of the official receiver, or the liquidator or any creditor or contributory of the company, may, if it thinks proper to do so, declare that any persons who were knowingly parties to the carrying on of the business in the manner above mentioned are to be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the court may direct.
- (3) On the hearing of the application, the official receiver or the liquidator (as the case may be) may himself give evidence or call witnesses.
- (4) Where the court makes such a declaration, it may give such further directions as it thinks proper for giving effect to the declaration ; and in particular, the court may—
 - (a) provide for the liability of any person under the declaration to be a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf, and
 - (b) from time to time make such further order as may be necessary for enforcing any charge imposed under this subsection.
- (5) For purposes of subsection (4), " assignee "—
 - (a) includes a person to whom or in whose favour, by the directions of the person made liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but
 - (b) does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.
- (6) This section has effect notwithstanding that the person concerned may be criminally liable in respect of matters on the ground of which the declaration under subsection (2) is to be made; and where the declaration is made in the case of a winding up in England and Wales, it is deemed a final judgment within section 1(1)(g) of the Bankruptcy Act 1914.

631 Assessment of damages against delinquent directors, etc.

- (1) The following applies if in the course of winding up a company it appears that a person who has taken part in its formation or promotion, or any past or present director, manager or liquidator, or an officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company.
- (2) The court may, on the application of the official receiver or the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator or officer and compel him—
 - (a) to repay or restore the money or property, or any part of it, respectively with interest at such rate as the court thinks just, or

- (b) to contribute such sum to the company's assets by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the court thinks just
- (3) This section has effect notwithstanding that the offence is one for which the offender may be criminally liable.
- (4) If in the case of a winding up in England and Wales an order for payment of money is made under this section, the order is deemed a final judgment within section 1(1)(g) of the Bankruptcy Act 1914.

632 Prosecution of delinquent officers and members of company

- (1) If it appears to the court in the course of a winding up by, or subject to the supervision of, the court that any past or present officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the court may (either on the application of a person interested in the winding up or of its own motion) direct the liquidator to refer the matter to the prosecuting authority.
- (2) " The prosecuting authority " means—
 - (a) in the case of a winding up in England and Wales, the Director of Public Prosecutions, and
 - (b) in the case of a winding up in Scotland, the Lord Advocate.
- (3) If it appears to the liquidator in the course of a voluntary winding up that any past or present officer of the company, or any member of it, has been guilty of any offence in relation to the company for which he is criminally liable, he shall—
 - (a) forthwith report the matter to the prosecuting authority, and
 - (b) furnish to that authority such information and give to him such access to and facilities for inspecting and taking copies of documents (being information or documents in the possession or under the control of the liquidator and relating to the matter in question) as the authority requires.
- (4) Where a report is made to him under subsection (3), the prosecuting authority may, if he thinks fit, refer the matter to the Secretary of State for further enquiry ; and the Secretary of State—
 - (a) shall thereupon investigate the matter, and
 - (b) for the purpose of his investigation may exercise any of the powers which are exercisable by inspectors appointed under section 431 or 432 to investigate a company's affairs.
- (5) If it appears to the court in the course of a voluntary winding up that any past or present officer of the company, or any member of it, has been guilty as above-mentioned, and that no report with respect to the matter has been made by the liquidator to the prosecuting authority under subsection (3), the court may (on the application of any person interested in the winding up or of its own motion) direct the liquidator to make such a report; and on a report being made accordingly this section has effect as though the report had been made in pursuance of subsection (3).

633 Obligations arising under s. 632

- (1) For the purpose of an investigation by the Secretary of State under section 632(4), any obligation imposed on a person by any provision of this Act to produce documents or

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give information to, or otherwise to assist, inspectors appointed as mentioned in that subsection is to be regarded as an obligation similarly to assist the Secretary of State in his investigation.

- (2) An answer given by a person to a question put to him in exercise of the powers conferred by section 632(4) may be used in evidence against him.
- (3) Where criminal proceedings are instituted by the prosecuting authority or the Secretary of State following any report or reference under section 632, it is the duty of the liquidator and every officer and agent of the company past and present (other than the defendant or defender) to give to that authority or the Secretary of State (as the case may be) all assistance in connection with the prosecution which he is reasonably able to give.

For this purpose "agent" includes any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

- (4) If a person fails or neglects to give assistance in the manner required by subsection (3), the court may, on the application of the prosecuting authority or the Secretary of State (as the case may be) direct the person to comply with that subsection; and if the application is made with respect to a liquidator, the court may (unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him to do so) direct that the costs shall be borne by the liquidator personally.

Supplementary provisions as to winding up

634 Disqualification for appointment as liquidator

- (1) A body corporate is not qualified for appointment as liquidator of a company, whether in a winding up by or under the supervision of the court or in a voluntary winding up.
- (2) Any appointment made in contravention of this section is void; and a body corporate which acts as liquidator of a company is liable to a fine.

635 Corrupt inducement affecting appointment as liquidator

A person who gives or agrees or offers to give to any member or creditor of a company any valuable consideration with a view to securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the company's liquidator is liable to a fine.

636 Enforcement of liquidator's duty to make returns, etc.

- (1) If a liquidator who has made any default—
 - (a) in filing, delivering or making any return, account or other document, or
 - (b) in giving any notice which he is by law required to file, deliver, make or give,
 fails to make good the default within 14 days after the service on him of a notice requiring him to do so, the court has the following powers.

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- (2) On an application made by any creditor or contributory of the company, or by the registrar of companies, the court may make an order directing the liquidator to make good the default within such time as may be specified in the order.
- (3) The court's order may provide that all costs of and incidental to the application shall be borne by the liquidator.
- (4) Nothing in this section prejudices the operation of any enactment imposing penalties on a liquidator in respect of any such default as is mentioned above.

637 Notification that company is in liquidation

- (1) When a company is being wound up, whether by or under supervision of the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company, or a liquidator of the company, or a receiver or manager of the company's property, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.
- (2) If default is made in complying with this section, the company and any of the following persons who knowingly and wilfully authorises or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, is liable to a fine.

638 In a winding up, certain documents exempt from stamp duty

- (1) In the case of a winding up by the court, or of a creditors' voluntary winding up, the following has effect as regards exemption from duties chargeable under the enactments relating to stamp duties.
- (2) If the company is registered in England and Wales, the following documents are exempt from stamp duty—
 - (a) every assurance relating solely to freehold or leasehold property, or to any estate, right or interest in, any real or personal property, which forms part of the company's assets and which, after the execution of the assurance, either at law or in equity, is or remains part of those assets, and
 - (b) every power of attorney, proxy paper, writ, order, certificate, or other instrument or writing relating solely to the property of any company which is being wound up as mentioned in subsection (1), or to any proceeding under such a winding up.

" Assurance " here includes deed, conveyance, assignment and surrender.

- (3) If the company is registered in Scotland, the following documents are exempt from stamp duty—
 - (a) every conveyance relating solely to property which forms part of the company's assets and which, after the execution of the conveyance, is or remains the company's property for the benefit of its creditors.
 - (b) every power of attorney, commission, factory, articles of roup or sale, submission and every other instrument and writing whatsoever relating solely to the company's property, and
 - (c) every deed or writing forming part of the proceedings in the winding up.

" Conveyance " here includes assignation, instrument, discharge, writing and deed.

639 Company's books to be evidence

Where a company is being wound up, all books and papers of the company and of the liquidators are, as between the contributories of the company, prima facie evidence of the truth of all matters purporting to be recorded in them.

640 Disposal of books and papers

- (1) When a company has been wound up and is about to be dissolved, its books and papers and those of the liquidators may be disposed of as follows—
 - (a) in the case of a winding up by or subject to the supervision of the court, in such way as the court directs;
 - (b) in the case of a members' voluntary winding up, in such way as the company by extraordinary resolution directs, and
 - (c) in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, the company's creditors may direct
- (2) After 5 years from the company's dissolution no responsibility rests on the company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to a person claiming to be interested in it.
- (3) Provision may be made by general rules—
 - (a) for enabling the Secretary of State to prevent for such period as he thinks proper (but not exceeding 5 years from the company's dissolution), the destruction of the books and papers of a company which has been wound up, and
 - (b) for enabling any creditor or contributory of the company to make representations to the Secretary of State and to appeal to the court from any direction which may be given by the Secretary of State in the matter.
- (4) If a person acts in contravention of general rules made for the purposes of this section, or of any direction of the Secretary of State under them, he is liable to a fine.

641 Information as to pending liquidations

- (1) If the winding up of a company is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the registrar of companies a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in, and position of, the liquidation.
- (2) If a liquidator fails to comply with this section, he is liable to a fine and, for continued contravention, to a daily default fine.

642 Unclaimed assets (England and Wales)

- (1) This section applies if, where a company is being wound up in England and Wales, it appears (either from any statement sent to the registrar under section 641 or otherwise) that a liquidator has in his hands or under his control any money—

- (a) representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for 6 months after the date of their receipt, or
 - (b) held by the company in trust in respect of dividends or other sums due to any person as a member of the company.
- (2) The liquidator shall forthwith pay the money in question to the Insolvency Services Account at the Bank of England, and is entitled to the prescribed certificate of receipt for the money so paid, and that certificate is an effectual discharge to him in respect of it
- (3) For the purpose of ascertaining and getting in any money payable into the Bank of England in pursuance of this section, the like powers may be exercised, and by the like authority, as are exercisable under section 153 of the Bankruptcy Act 1914 for the purpose of ascertaining and getting in the sums, funds and dividends referred to in that section.
- (4) Any person claiming to be entitled to money paid into the Bank of England under this section may apply to the Secretary of State for payment; and the Secretary of State may, on a certificate by the liquidator that the person claiming is entitled, make an order for payment to that person of the sum due.
- (5) Any person dissatisfied with a decision of the Secretary of State in respect of a claim made under this section may appeal to the High Court.

643 Unclaimed dividends, etc. (Scotland)

- (1) The following applies where a company registered in Scotland has been wound up, and is about to be dissolved.
- (2) The liquidator shall lodge in a joint stock bank of issue in Scotland (not being a bank in or of which the liquidator is acting partner, manager, agent or cashier) in the name of the Accountant of Court the whole unclaimed dividends and unapplied or undistributable balances, and the deposit receipts shall be transmitted to the Accountant of Court.
- (3) The provisions of section 153 of the Bankruptcy (Scotland) Act 1913 (so far as consistent with this Act) apply with any necessary modifications to sums lodged in a bank under this section as they apply to sums deposited under that section.

644 Resolutions passed at adjourned meetings

Where a resolution is passed at an adjourned meeting of a company's creditors or contributories, the resolution is treated for all purposes as having been passed on the date on which it was in fact passed, and not as having been passed on any earlier date.

Supplementary powers of court

645 Meetings to ascertain wishes of creditors or contributories

- (1) The court may—

- (a) as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories (as proved to it by any sufficient evidence), and
 - (b) if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the court directs, and appoint a person to act as chairman of any such meeting and report the result of it to the court.
- (2) In the case of creditors, regard shall be had to the value of each creditor's debt
- (3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by this Act of each creditor's debt.

646 Judicial notice of signature of court officers

In all proceedings under this Part, all courts, judges and persons judicially acting, and all officers, judicial or ministerial, of any court, or employed in enforcing the process of any court shall take judicial notice—

- (a) of the signature of any officer of the High Court or of a county court in England and Wales, or of the Court of Session or a sheriff court in Scotland, or of the High Court in Northern Ireland, and also
- (b) of the official seal or stamp of the several offices of the High Court in England and Wales or Northern Ireland, or of the Court of Session, appended to or impressed on any document made, issued or signed under the provisions of this Act, or any official copy of such a document.

647 Commission for receiving evidence

- (1) When a company is wound up in England and Wales or in Scotland, the court may refer the whole or any part of the examination of witnesses—
- (a) to a specified county court in England and Wales, or
 - (b) to the sheriff principal for a specified sheriffdom in Scotland, or
 - (c) to the High Court in Northern Ireland or a specified Northern Ireland County Court,
- (" specified " meaning specified in the order of the winding-up court).
- (2) Any person exercising jurisdiction as a judge of the court to which the reference is made (or, in Scotland, the sheriff principal to whom it is made) shall then, by virtue of this section, be a commissioner for the purpose of taking the evidence of those witnesses.
- (3) The judge or sheriff principal has in the matter referred the same power of summoning and examining witnesses, of requiring the production and delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses, as the court which made the winding-up order.

These powers are in addition to any which the judge or sheriff principal might lawfully exercise apart from this section.

- (4) The examination so taken shall be returned or reported to the court which made the order in such manner as that court requests.
- (5) This section extends to Northern Ireland.

648 Court order for examination of persons in Scotland

- (1) The court may direct the examination in Scotland of any person for the time being in Scotland (whether a contributory of the company or not), in regard to the trade, dealings, affairs or property of any company in course of being wound up, or of any person being a contributory of the company, so far as the company may be interested by reason of his being a contributory.
- (2) The order or commission to take the examination shall be directed to the sheriff principal of the sheriffdom in which the person to be examined is residing or happens to be for the time; and the sheriff principal shall summon the person to appear before him at a time and place to be specified in the summons for examination on oath as a witness or as a haver, and to produce any books or papers called for which are in his possession or power.
- (3) The sheriff principal may take the examination either orally or on written interrogatories, and shall report the same in writing in the usual form to the court, and shall transmit with the report the books and papers produced, if the originals are required and specified by the order or commission, or otherwise copies or extracts authenticated by the sheriff.
- (4) If a person so summoned fails to appear at the time and place specified, or refuses to be examined or to make the production required, the sheriff principal shall proceed against him as a witness or haver duly cited; and failing to appear or refusing to give evidence or make production may be proceeded against by the law of Scotland.
- (5) The sheriff principal is entitled to such fees, and the witness is entitled to such allowances, as sheriffs principal when acting as commissioners under appointment from the Court of Session and as witnesses and havers are entitled to in the like cases according to the law and practice of Scotland.
- (6) If any objection is stated to the sheriff principal by the witness, either on the ground of his incompetency as a witness, or as to the production required, or on any other ground, the sheriff principal may, if he thinks fit, report the objection to the court, and suspend the examination of the witness until it has been disposed of by the court

649 Costs of application for leave to proceed (Scottish companies)

Where a petition or application for leave to proceed with an action or proceeding against a company which is being wound up in Scotland is unopposed and is granted by the court, the costs of the petition or application shall, unless the court otherwise directs, be added to the amount of the petitioner's or applicant's claim against the company.

650 Affidavits, etc., in United Kingdom and overseas

- (1) An affidavit required to be sworn under or for the purposes of this Part may be sworn in the United Kingdom or elsewhere in Her Majesty's dominions, before any court, judge or person lawfully authorised to take and receive affidavits, or before any of Her Majesty's consuls or vice-consuls in any place outside Her dominions.
- (2) All courts, judges, justices, commissioners and persons acting judicially shall take judicial notice of the seal or stamp or signature (as the case may be) of any such court, judge, person, consul or vice-consul attached, appended or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part.

CHAPTER VI

MATTERS ARISING SUBSEQUENT TO WINDING UP

651 Power of court to declare dissolution of company void

- (1) Where a company has been dissolved, the court may at any time within 2 years of the date of the dissolution, on an application made for the purpose by the liquidator of the company or by any other person appearing to the court to be interested, make an order, on such terms as the court thinks fit declaring the dissolution to have been void.
- (2) Thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.
- (3) It is the duty of the person on whose application the order was made, within 7 days after its making (or such further time as the court may allow), to deliver to the registrar of companies for registration an office copy of the order.

If the person fails to do so, he is liable to a fine and, for continued contravention, to a daily default fine.

652 Registrar may strike defunct company off register

- (1) If the registrar of companies has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.
- (2) If the registrar does not within one month of sending the letter receive any answer to it, he shall within 14 days after the expiration of that month send to the company by post a registered letter referring to the first letter, and stating that no answer to it has been received, and that if an answer is not received to the second letter within one month from its date, a notice will be published in the Gazette with a view to striking the company's name off the register.
- (3) If the registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Gazette, and send to the company by post, a notice that at the expiration of 3 months from the date of that notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.
- (4) If, in a case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of 6 consecutive months, the registrar shall publish in the Gazette and send to the company or the liquidator (if any) a like notice as is provided in subsection (3).
- (5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice of this in the Gazette; and on the publication of that notice in the Gazette the company is dissolved.
- (6) However—

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- (a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and
 - (b) nothing in subsection (5) affects the power of the court to wind up a company the name of which has been struck off the register.
- (7) A notice to be sent to a liquidator under this section may be addressed to him at his last known place of business; and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office or, if no office has been registered, to the care of some officer of the company.

If there is no officer of the company whose name and address are known to the registrar of companies, the letter or notice may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

653 Objection to striking off by person aggrieved

- (1) The following applies if a company or any member or creditor of it feels aggrieved by the company having been struck off the register.
- (2) The court, on an application by the company or the member or creditor made before the expiration of 20 years from publication in the Gazette of notice under section 652, may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the company's name to be restored.
- (3) On an office copy of the order being delivered to the registrar of companies for registration the company is deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position (as nearly as may be) as if the company's name had not been struck off.

654 Property of dissolved company to be bona vacantia

- (1) When a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property, but not including property held by the company on trust for any other person) are deemed to be bona vacantia and—
 - (a) accordingly belong to the Crown, or to the Duchy of Lancaster or to the Duke of Cornwall for the time being (as the case may be), and
 - (b) vest and may be dealt with in the same manner as other bona vacantia accruing to the Crown, to the Duchy of Lancaster or to the Duke of Cornwall.
- (2) Except as provided by the section next following, the above has effect subject and without prejudice to any order made by the court under section 651 or 653

655 Effect on s. 654 of company's revival after dissolution

- (1) The person in whom any property or right is vested by section 654 may dispose of, or of an interest in, that property or right notwithstanding that an order may be made under section 651 or 653.
- (2) Where such an order is made—

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- (a) it does not affect the disposition (but without prejudice to the order so far as it relates to any other property or right previously vested in or held on trust for the company), and
- (b) the Crown or, as the case may be, the Duke of Cornwall shall pay to the company an amount equal to—
 - (i) the amount of any consideration received for the property or right, or interest therein, or
 - (ii) the value of any such consideration at the time of the disposition,
 or, if no consideration was received, an amount equal to the value of the property, right or interest disposed of, as at the date of the disposition.
- (3) Where a liability accrues under subsection (2) in respect of any property or right which, before the order under section 651 or 653 was made, had accrued as bona vacantia to the Duchy of Lancaster, the Attorney General of the Duchy shall represent Her Majesty in any proceedings arising in connection with that liability.
- (4) Where a liability accrues under subsection (2) in respect of any property or right which, before the order under section 651 or 653 was made, had accrued as bona vacantia to the Duchy of Cornwall, such persons as the Duke of Cornwall (or other possessor for the time being of the Duchy) may appoint shall represent the Duke (or other possessor) in any proceedings arising out of that liability.
- (5) This section applies in relation to the disposition of any property, right or interest on or after 22nd December 1981, whether the company concerned was dissolved before, on or after that day.

656 Crown disclaimer of property vesting as bona vacantia

- (1) Where property vests in the Crown under section 654, the Crown's title to it under that section may be disclaimed by a notice signed by the Crown representative, that is to say the Treasury Solicitor, or, in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer.
- (2) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Crown either expressly or by taking possession or other act evincing that intention.
- (3) A notice of disclaimer under this section is of no effect unless it is executed—
 - (a) within 12 months of the date on which the vesting of the property under section 654 came to the notice of the Crown representative, or
 - (b) if an application in writing is made to the Crown representative by any person interested in the property requiring him to decide whether he will or will not disclaim, within a period of 3 months after the receipt of the application or such further period as may be allowed by the court which would have had jurisdiction to wind up the company if it had not been dissolved.
- (4) A statement in a notice of disclaimer of any property under this section that the vesting of it came to the notice of the Crown representative on a specified date, or that no such application as above mentioned was received by him with respect to the property before a specified date, is sufficient evidence of the fact stated, until the contrary is proved.
- (5) A notice of disclaimer under this section shall be delivered to the registrar of companies and retained and registered by him; and copies of it shall be published in

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the Gazette and sent to any persons who have given the Crown representative notice that they claim to be interested in the property.

- (6) This section applies to property vested in the Duchy of Lancaster or the Duke of Cornwall under section 654 as if for references to the Crown and the Crown representative there were respectively substituted references to the Duchy of Lancaster and to the Solicitor to that Duchy, or to the Duke of Cornwall and to the Solicitor to the Duchy of Cornwall, as the case may be.

657 Effect of Crown disclaimer under s. 656

- (1) Where notice of disclaimer is executed under section 656 as respects any property, that property is deemed not to have vested in the Crown under section 654.
- (2) As regards property in England and Wales, the following provisions above in this Chapter—
- (a) section 618(4) (effect of disclaimer by liquidator),
 - (b) section 619(1) to (7) (court's power to vest property in the person entitled), with Part I of Schedule 20 (protection of third parties where property is leasehold), and
 - (c) section 620 (liability for rentcharge following disclaimer), apply as if the property had been disclaimed by the liquidator under section 618(1) immediately before the dissolution of the company.
- (3) As regards property in Scotland, the following 4 subsections apply.
- (4) The Crown's disclaimer operates to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company, and the property of the company, in or in respect of the property disclaimed; but it does not (except so far as is necessary for the purpose of releasing the company and its property from liability) affect the rights or liabilities of any other person.
- (5) The court may, on application by a person who either claims an interest in disclaimed property or is under a liability not discharged by this Act in respect of disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or its delivery to any persons entitled to it, or to whom it may seem just that the property should be delivered by way of compensation for such liability, or a trustee for him, and on such terms as the court thinks just
- (6) On such a vesting order being made, the property comprised in it vests accordingly in the person named in that behalf in the order, without conveyance or assignation for that purpose.
- (7) Part II of Schedule 20 has effect for the protection of third parties where the property disclaimed is held under a lease.

658 Liability for rentcharge on company's land after dissolution

- (1) Section 620 applies to land in England and Wales which by operation of law vests subject to a rentcharge in the Crown or any other person on the dissolution of a company as it applies to land so vesting on a disclaimer under section 618.
- (2) In this section " company " includes any body corporate.

CHAPTER VII

MISCELLANEOUS PROVISIONS ABOUT WINDING UP

659 Power to make over assets to employees

- (1) On the winding up of a company (whether by the court or voluntarily), the liquidator may, subject to the following provisions of this section, make any payment which the company has, before the commencement of the winding up, decided to make under section 719 (power to provide for employees or former employees on cessation or transfer of business).
- (2) The power which a company may exercise by virtue only of that section may be exercised by the liquidator after the winding up has commenced if, after the company's liabilities have been fully satisfied and provision has been made for the costs of the winding up, the exercise of that power has been sanctioned by such a resolution of the company as would be required of the company itself by section 719(3) before that commencement, if paragraph (b) of that subsection were omitted and any other requirement applicable to its exercise by the company had been met.
- (3) Any payment which may be made by a company under this section (that is, a payment after the commencement of its winding up) may be made out of the company's assets which are available to the members on the winding up.
- (4) On a winding up by the court, the exercise by the liquidator of his powers under this section is subject to the court's control, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of the power.
- (5) Subsections (1) and (2) above have effect notwithstanding anything in any rule of law or in section 597 of this Act (property of company after satisfaction of liabilities to be distributed among members).

660 Separate accounts of particular estates (England and Wales)

- (1) An account shall be kept by the Secretary of State of the receipts and payments in the winding up of each company in England and Wales.
- (2) When the cash balance standing to the credit of the account of any company is in excess of the amount which, in the opinion of the committee of inspection, is required for the time being to answer demands in respect of the company's estate, the Secretary of State shall on the request of the committee invest the amount not so required in Government securities, to be placed to the credit of that account for the company's benefit
- (3) When any part of the money so invested is, in the opinion of the committee of inspection, required to answer any demands in respect of the company's estate, the Secretary of State shall, on the committee's request, raise such sum as may be required by the sale of such part of those securities as may be necessary.
- (4) The dividends on investments under this section shall be paid to the credit of the company.
- (5) When the balance at the credit of a company's account in the hands of the Secretary of State exceeds £2,000, and the liquidator gives notice to him that the excess is not

required for the purposes of the liquidation, the company is entitled to interest on the excess at such rate as may for the time being be prescribed by order of the Treasury.

- (6) The Treasury's power to make orders under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament

661 Officers and remuneration (England and Wales)

- (1) The Secretary of State may, with the approval of the Treasury, appoint such additional officers as may be required by him for the execution of this Part as respects England and Wales, and may remove any person so appointed.
- (2) The Secretary of State, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any officer of, or person attached to, his department performing any duties under this Part in relation to the winding up of companies in England and Wales, and may vary, increase or diminish that remuneration as he (the Secretary of State) thinks fit.

662 Returns by officers in winding up (England and Wales)

The officers of the courts acting in the winding up of companies in England and Wales shall make to the Secretary of State such returns of the business of their respective courts and offices at such times, and in such manner and form, as may be prescribed; and from these returns the Secretary of State shall cause books to be prepared which shall (under regulations made by him) be open for public information and searches.

663 Rules and fees

- (1) The Lord Chancellor may, with the concurrence of the Secretary of State, make general rules for carrying into effect the objects of this Act so far as relates to the winding up of companies in England and Wales.
- (2) The Court of Session may by Act of Sederunt make general rules for carrying into effect the objects of this Act so far as relates to the winding up of companies in Scotland.
- (3) An answer given by a person to a question put to him in exercise of powers conferred by general rules may be used in evidence against him.
- (4) There shall be paid in respect of proceedings under this Act in relation to the winding up of companies in England and Wales such fees as the Lord Chancellor may, with the sanction of the Treasury, direct; and the Treasury may direct by whom and in what manner the fees are to be collected and accounted for.
- (5) The powers conferred by this section on the Lord Chancellor, the Court of Session and the Treasury are exercisable by statutory instrument; and a statutory instrument containing general rules shall be laid before Parliament after being made.
- (6) Fees in respect of proceedings under this Act in relation to the winding up of companies shall be paid into the Consolidated Fund.

664 Power to alter monetary limits

- (1) The Secretary of State may by regulations in a statutory instrument increase or reduce any of the money sums for the time being specified in the following provisions of this Part—
 - section 512(2),
 - section 515(3),
 - section 518(1)(a),
 - section 542(4),
 - section 622(3),
 - section 624(1)(a) and (b), and
 - paragraph 12 of Schedule 19.
- (2) Regulations shall not be made under this section unless a draft of the statutory instrument containing them has been approved by resolution of each House of Parliament.