



Companies Act 1985

1985 CHAPTER 6

PART XX

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

CHAPTER II

WINDING UP BY THE COURT

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.

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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,

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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
- (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,

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- (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.
 - (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

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- (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.