



Insolvency Act 1985

1985 CHAPTER 65

PART II

COMPANY INSOLVENCY ETC

CHAPTER VIII

SUPPLEMENTAL

108 Construction of Part II

- (1) The provisions of this Part shall be construed as one with the 1985 Act and—
 - (a) so far as relating to the disqualification of directors and others involved in the management of companies, with Part IX of that Act;
 - (b) so far as relating to receivers or managers, with Part XIX of that Act; and
 - (c) so far as relating to the winding up of companies, with Part XX of that Act,and references in that Act to itself and to any of those Parts of that Act shall be construed accordingly.
- (2) The following provisions, namely—
 - (a) sections 295 and 301 of the 1985 Act (disqualification orders and register of such orders); and
 - (b) paragraphs I and 3 to 5 of Part I of Schedule 12 to that Act (procedure for applying for and obtaining disqualification orders and applications for leave under such orders),shall apply for the purposes of sections 12, 13 and 16 above; and references in those provisions to sections 296 to 299 of that Act shall be construed accordingly.
- (3) In this Part, except in so far as the context otherwise requires—
 - " administrative receiver " means—
 - (a) an administrative receiver within the meaning of Chapter IV of this Part;
 - or

Status: This is the original version (as it was originally enacted).

- (b) a receiver appointed under section 467 of the 1985 Act in a case where the whole (or substantially the whole) of the company's property is attached by the floating charge;
 - " business day " means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Great Britain ;
 - " chattel leasing agreement" means an agreement for the bailment or, in Scotland, the hiring of goods which is capable of subsisting for more than three months;
 - " floating charge " means a charge which, as created, was a floating charge;
 - " insolvency", in relation to a company, includes the approval of a composition or scheme under Chapter II of this Part, the making of an administration order or the appointment of an administrative receiver;
 - " office copy ", in relation to Scotland, means a copy certified by the clerk of court;
 - " preferential debt" means a debt listed in Part I of Schedule 4 to this Act and " preferential creditor " shall be construed accordingly;
 - " prescribed " means prescribed by the rules ;
 - " receiver ", in the expression " receiver or manager ", does not include a receiver appointed under section 467 of the 1985 Act;
 - " retention of title agreement " means an agreement for the sale of goods to a company, being an agreement—
 - (a) which does not constitute a charge on the goods; but
 - (b) under which, if the seller is not paid and the company is wound up, the seller will have priority over all other creditors of the company as respects the goods or any property representing the goods ;
 - " the rules " means rules under section 106 above ;
 - " secured creditor ", in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and " unsecured creditor " shall be construed accordingly ;
 - " security " means—
 - (a) in relation to England and Wales, any mortgage, charge, lien or other security ;
 - (b) in relation to Scotland, any security (whether heritable or movable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off).
- (4) For the purposes of this Part a company goes into liquidation if it passes a resolution for voluntary winding up or an order for its winding up is made by the court at a time when it has not already gone into liquidation by passing such a resolution.
- (5) For the purposes of this Part a person is connected with a company if—
 - (a) he is a director or shadow director of the company or an associate of such a director or shadow director; or
 - (b) he is an associate of the company.
- (6) For the purposes of this Part a person who is not a member of a company but to whom shares in the company have been transferred, or transmitted by operation of law, shall be regarded as a member of the company, and references to a member or members shall be construed accordingly.

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- (7) Where any provision of this Part provides that a person is liable to a daily default fine of any amount for continued contravention of any offence, that person shall be liable on a second or subsequent summary conviction of the offence to a fine of that amount for each day on which the contravention is continued (instead of to any other penalty specified in that provision).