



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER VI

WINDING UP BY THE COURT

Grounds and effect of winding-up petition

123 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 (in the prescribed form) 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 as they fall due.

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- (2) A company is also deemed unable to pay its debts if it is proved to the satisfaction of the court that the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.
- (3) The money sum for the time being specified in subsection (1)(a) is subject to increase or reduction by order under section 416 in Part XV.

Modifications etc. (not altering text)

- C1** S. 123 applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), art. 8, **Sch. 4 Pt. II para. 7(a)**
S. 123 applied (1.10.1996) by [1996 c. 52](#), s. 7, **Sch. 1 Pt. II para. 14(2)**; [S.I. 1996/2402](#), art. 3
(subject to transitional provisions and savings in [Sch.](#))
- C2** S. 123 applied (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 166(3), 263(1)(2)** (with s. 247); [S.I. 2009/296](#), **arts. 2, 3**, Sch. para. 3

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