



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXIV

INSOLVENCY

VALID FROM 01/12/2001

Voluntary winding up

365 Authority's powers to participate in proceedings.

- (1) This section applies in relation to a company which—
 - (a) is being wound up voluntarily;
 - (b) is an authorised person; and
 - (c) is not an insurer effecting or carrying out contracts of long-term insurance.
- (2) The Authority may apply to the court under section 112 of the 1986 Act (or Article 98 of the 1989 Order) in respect of the company.
- (3) The Authority is entitled to be heard at any hearing of the court in relation to the voluntary winding up of the company.
- (4) Any notice or other document required to be sent to a creditor of the company must also be sent to the Authority.
- (5) A person appointed for the purpose by the Authority is entitled—
 - (a) to attend any meeting of creditors of the company summoned under any enactment;
 - (b) to attend any meeting of a committee established under section 101 of the 1986 Act (or Article 87 of the 1989 Order); and
 - (c) to make representations as to any matter for decision at such a meeting.

Status: Point in time view as at 21/06/2001. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Voluntary winding up is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) The voluntary winding up of the company does not bar the right of the Authority to have it wound up by the court.
- (7) If, during the course of the winding up of the company, a compromise or arrangement is proposed between the company and its creditors, or any class of them, the Authority may apply to the court under section 425 of the ^{M1}Companies Act 1985 (or Article 418 of the ^{M2}Companies (Northern Ireland) Order 1986).

Modifications etc. (not altering text)

- C1 S. 365 applied (with modifications) (6.4.2001) by S.I. 2001/1090, **regs. 1, 6**
- C2 Ss. 361-365 applied (with modifications) (N.I.) (13.9.2004) by Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. 2004/307), **reg. 6**

Marginal Citations

- M1 1985 c. 6.
- M2 S.I. 1986/1032 (N.I. 6).

366 Insurers effecting or carrying out long-term contracts or insurance.

- (1) An insurer effecting or carrying out contracts of long-term insurance may not be wound up voluntarily without the consent of the Authority.
- (2) If notice of a general meeting of such an insurer is given, specifying the intention to propose a resolution for voluntary winding up of the insurer, a director of the insurer must notify the Authority as soon as practicable after he becomes aware of it.
- (3) A person who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The following provisions do not apply in relation to a winding-up resolution—
- (a) sections 378(3) and 381A of the ^{M3}Companies Act 1985 (“the 1985 Act”); and
 - (b) Articles 386(3) and 389A of the ^{M4}Companies (Northern Ireland) Order 1986 (“the 1986 Order”).
- (5) A copy of a winding-up resolution forwarded to the registrar of companies in accordance with section 380 of the 1985 Act (or Article 388 of the 1986 Order) must be accompanied by a certificate issued by the Authority stating that it consents to the voluntary winding up of the insurer.
- (6) If subsection (5) is complied with, the voluntary winding up is to be treated as having commenced at the time the resolution was passed.
- (7) If subsection (5) is not complied with, the resolution has no effect.
- (8) “Winding-up resolution” means a resolution for voluntary winding up of an insurer effecting or carrying out contracts of long-term insurance.

Marginal Citations

- M3 1985 c. 6.

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M4 [S.I. 1986/1032 \(N.I. 6\)](#).

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