



# Companies (Consolidation) Act 1908

1908 CHAPTER 69 8 Edw 7

## PART IV

### WINDING UP.

#### *Winding up by Court.*

#### **137 Provisions as to applications for winding up.**

- (1) An application to the court for the winding up of a company shall be by petition, presented subject to the provisions of this section 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 :  
Provided that
- (a) A contributory shall not be entitled to present a petition for winding up a company unless—
    - (i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven ; or
    - (ii) 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 name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder ; and
  - (b) A petition for winding up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held ; and
  - (c) The court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a prima facie case for winding up has been established to the satisfaction of the court.

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (2) Where a company is being wound up voluntarily or subject to supervision in England, a 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.
- (3) Where under the provisions of this Part of this Act any person as being the husband of a female contributory is himself a contributory, and a share has during the whole or any part of the six months been held by or registered in the name of the wife, or by or in the name of a trustee for the wife or for the husband,-the share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the husband.