



# Companies Act 1948

1948 CHAPTER 38 11 and 12 Geo 6

## PART V

### WINDING UP.

#### (v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP

*Effect of Winding Up on antecedent and other Transactions.*

**325 Restriction of rights of creditor as to execution or attachment in case of company being wound up in England.**

- (1) Where a creditor has issued execution against the goods or lands of a company or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the company unless he has completed the execution or attachment before the commencement of the winding up:

Provided that—

- (a) where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall, for the purposes of the foregoing provision, be substituted for the date of the commencement of the winding up;
  - (b) a person who purchases in good faith under a sale by the sheriff any goods of a company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator; and
  - (c) the rights conferred by this subsection on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit.
- (2) For the purposes of this section, an execution against goods shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to

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*Status: This is the original version (as it was originally enacted).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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be completed by seizure and, in the case of an equitable interest, by the appointment of a receiver.

- (3) In this section the expression “goods ” includes all chattels personal, and the expression “sheriff” includes any officer charged with the execution of a writ or other process.
- (4) This section shall not apply in the case of a winding up in Scotland.