



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV U.K.

#### WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

### CHAPTER VI E+W+S

#### WINDING UP BY THE COURT

##### *Grounds and effect of winding-up petition*

#### 124 Application for winding up. E+W+S

- (1) Subject to the provisions of this section, an application to the court for the winding up of a company shall be by petition presented either by the company, or the directors, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories [<sup>F1</sup>, or by a liquidator (within the meaning of Article 2(b) of the EC Regulation) appointed in proceedings by virtue of Article 3(1) of the EC Regulation or a temporary administrator (within the meaning of Article 38 of the EC Regulation)] [<sup>F2</sup> or by [<sup>F3</sup>the designated officer for a magistrates' court] in the exercise of the power conferred by section 87A of the Magistrates' Courts Act 1980 (enforcement of fines imposed on companies)], or by all or any of those parties, together or separately.
- (2) Except as mentioned below, a contributory is not entitled to present a winding-up petition unless either—
  - (a) the number of members is reduced below 2, or
  - (b) 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 6 months during the 18 months before the commencement of the winding up, or have devolved on him through the death of a former holder.

*Status: Point in time view as at 01/01/2014. This version of this provision has been superseded.*

*Changes to legislation: Insolvency Act 1986, Section 124 is up to date with all changes known to be in force on or before 15 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)*

- (3) A person who is liable under section 76 to contribute to a company's assets in the event of its being wound up may petition on either of the grounds set out in section 122(1)(f) and (g), and subsection (2) above does not then apply; but unless the person is a contributory otherwise than under section 76, he may not in his character as contributory petition on any other ground.
- <sup>F4</sup> . . .
- [<sup>F5</sup>(3A) A winding-up petition on the ground set out in section 122(1)(fa) may only be presented by one or more creditors]
- (4) A winding-up petition may be presented by the Secretary of State—
- (a) if the ground of the petition is that in section 122(1)(b) or (c), or
- [<sup>F6</sup>(b) in a case falling within section 124A [<sup>F7</sup>or 124B] below.]
- [<sup>F8</sup>(4AA) A winding up petition may be presented by the [<sup>F9</sup>Financial Conduct Authority] in a case falling within section 124C(1) or (2).]
- [<sup>F10</sup>(4A) A winding-up petition may be presented by the Regulator of Community Interest Companies in a case falling within section 50 of the Companies (Audit, Investigations and Community Enterprise) Act 2004.]
- (5) Where a company is being wound up voluntarily in England and Wales, a winding-up 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 cannot be continued with due regard to the interests of the creditors or contributories.

#### Textual Amendments

- F1** Words in s. 124(1) inserted (31.5.2002) by S.I. 2002/1240, **reg. 8**
- F2** Words inserted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 62(2)(b), 123, **Sch. 8 para. 16**
- F3** Words in s. 124(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 294**; S.I. 2005/910, **art. 3(y)**
- F4** Words in s. 122(1)(c) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 75(12)} (with art. 10, Sch. 1 para. 84)
- F5** S. 124(3A) inserted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 7**; S.I. 2002/2711, **art. 2** (with transitional provisions in arts. 3-5)
- F6** S. 124(4)(b) substituted by Companies Act 1989 (c. 40, SIF 27), **ss. 60(2)**, 213(2)
- F7** Words in s. 124(4)(b) inserted (8.10.2004) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 73(4)(a)**
- F8** S. 124(4AA) inserted (18.8.2006) by The European Cooperative Society Regulations 2006 (S.I. 2006/2078), **reg. 33(2)**
- F9** Words in s. 124(4AA) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), Sch. 11 para. 2(1), **(2)(a)** (with Sch. 12)
- F10** S. 124(4A) inserted (1.7.2005) by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), **ss. 50(3)**, 65; S.I. 2004/3322, **art. 2(3)**, Sch. 3

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**Modifications etc. (not altering text)**

- C1** S. 124 excluded (S.) (27.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 19), **ss. 14(3)**, 15(9); S.I. 1992/1599, **art. 5**
- C2** S. 124 extended (E.W.) by Magistrates' Courts Act 1980 (c. 43, SIF 82), **s. 87A** (as inserted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 62(1), 123, **Sch. 8 para. 16**)
- C3** S. 124 applied (with modifications) (1.12.1994) by S.I. 1994/2421, arts. 8(3)(9), 10(1)(a), Sch. 4 Pt. II para. 8, **Sch. 6 para. 2**

**Status:**

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**Changes to legislation:**

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