



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER VIII

PROVISIONS OF GENERAL APPLICATION IN WINDING UP

Preferential debts

175 Preferential debts (general provision).

(1) In a winding up the company's preferential debts ^{F1}... shall be paid in priority to all other debts.

[^{F2}(1A) Ordinary preferential debts rank equally among themselves after the expenses of the winding up and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.]

(1B) Secondary preferential debts rank equally among themselves after the ordinary preferential debts and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions.]

(2) Preferential debts—

^{F3}(a)

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures secured by, or holders of, any floating charge created by the company, and shall be paid accordingly out of any property comprised in or subject to that charge.

[^{F4}(3) In this section “preferential debts”, “ordinary preferential debts” and “secondary preferential debts” each has the meaning given in section 386 in Part 12.]

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Changes to legislation: Insolvency Act 1986, Cross Heading: Preferential debts is up to date with all changes known to be in force on or before 11 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)

Textual Amendments

- F1** Words in s. 175(1) omitted (1.1.2015) by virtue of [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **5(2)** (with art. 3)
- F2** S. 175(1A)(1B) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **5(3)** (with art. 3)
- F3** S. 175(2)(a) omitted (1.1.2015) by virtue of [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **5(4)** (with art. 3)
- F4** S. 175(3) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **5(5)** (with art. 3)

Modifications etc. (not altering text)

- C1** S. 175 excluded (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 46, **Sch. para. 2(4)**
- C2** S. 175 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 8(3)(9), **Sch. 4 Pt. II para. 23** (as amended (E.W.) (8.12.2017) by [The Insolvency \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/1119\)](#), reg. 1(1), **Sch. 2 para. 5**; and (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **20** (with art. 3); and (28.12.2020) (temp.) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(4), **121(4)**)
- C3** S. 175 applied (with modifications) (11.12.1999) by [The Financial Market and Insolvency \(Settlement Finality\) Regulations 1999 \(S.I. 1999/2979\)](#), reg. 14(5)(a)(i) (as substituted (1.10.2009) by [The Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2009 \(S.I. 2009/1972\)](#), **reg. 4(d)(ii)**)
- C4** S. 175 applied (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), **reg. 27(2)** (with reg. 3)
- C5** S. 175 excluded (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), **reg. 20** (with reg. 3)
 S. 175 excluded (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), **reg. 20** (with reg. 3) (as modified (10.8.2005) by S.I. 2005/1998, regs. 2(3), 40(1)–(5))
- C6** S. 175 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 2
- C7** S. 175 excluded by S.I. 2003/3226, reg. 10(2A) (as inserted (6.4.2011) by [The Financial Markets and Insolvency \(Settlement Finality and Financial Collateral Arrangements\) \(Amendment\) Regulations 2010 \(S.I. 2010/2993\)](#), **reg. 4(8)(a)**)

176 Preferential charge on goods distrained [^{F5}, etc] .

(1) This section applies where a company is being wound up by the court in England and Wales, and is without prejudice to section 128 (avoidance of attachments, etc.).

[^{F6}(2) Subsection (2A) applies where—

- (a) any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of the company, or
- (b) Her Majesty's Revenue and Customs has been paid any amount from an account of the company under Part 1 of Schedule 8 to the Finance (No. 2) Act 2015 (enforcement by deduction from accounts),

in the period of 3 months ending with the date of the winding-up order.

(2A) Where this subsection applies—

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- (a) in a case within subsection (2)(a), the goods or effects, or the proceeds of their sale, and
- (b) in a case within subsection (2)(b), the amount in question,
- is charged for the benefit of the company with the preferential debts of the company to the extent that the company's property is for the time being insufficient for meeting those debts.]
- (3) Where by virtue of a charge under subsection [^{F7}(2A)] any person surrenders any goods or effects to a company or makes a payment to a company, that person ranks, in respect of the amount of the proceeds of sale of those goods or effects by the liquidator or (as the case may be) the amount of the payment, as a preferential creditor of the company, except as against so much of the company's property as is available for the payment of preferential creditors by virtue of the surrender or payment.

Textual Amendments

- F5** Word in s. 176 heading inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 8 para. 30\(4\)](#)
- F6** S. 176(2)(2A) substituted for s. 176(2) (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 8 para. 30\(2\)](#)
- F7** Word in s. 176(3) substituted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 8 para. 30\(3\)](#)

Modifications etc. (not altering text)

- C8** S. 176 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), [ss. 103](#), [263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2](#), [3](#), [Sch. para. 2](#)

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