



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

#### CHAPTER VI

#### WINDING UP BY THE COURT

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

#### **123 Definition of inability to pay debts.**

- (1) A company is deemed unable to pay its debts—
- (a) if a creditor (by assignment or otherwise) to whom the company is indebted in a sum exceeding £750 then due has served on the company, by leaving it at the company's registered office, a written demand (in the prescribed form) requiring the company to pay the sum so due and the company has for 3 weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor, or
  - (b) if, in England and Wales, execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part, or
  - (c) if, in Scotland, the induciae of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made, or
  - (d) if, in Northern Ireland, a certificate of unenforceability has been granted in respect of a judgment against the company, or
  - (e) if it is proved to the satisfaction of the court that the company is unable to pay its debts as they fall due.

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**Status:** Point in time view as at 07/07/2020.

**Changes to legislation:** *Insolvency Act 1986, Section 123 is up to date with all changes known to be in force on or before 29 May 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)*

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- (2) A company is also deemed unable to pay its debts if it is proved to the satisfaction of the court that the value of the company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.
- (3) The money sum for the time being specified in subsection (1)(a) is subject to increase or reduction by order under section 416 in Part XV.

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

- C1** S. 123 applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), art. 8, **Sch. 4 Pt. II para. 7(a)**  
S. 123 applied (1.10.1996) by [1996 c. 52](#), s. 7, **Sch. 1 Pt. II para. 14(2)**; [S.I. 1996/2402](#), art. 3  
(subject to transitional provisions and savings in [Sch.](#))
- C2** S. 123 applied (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 166(3), 263(1)(2)** (with s. 247); [S.I. 2009/296](#), **arts. 2, 3**, [Sch. para. 3](#)

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