



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

Disclaimer (England and Wales only)

178 Power to disclaim onerous property.

- (1) This and the next two sections apply to a company that is being wound up in England and Wales.
- (2) Subject as follows, the liquidator may, by the giving of the prescribed notice, disclaim any onerous property and may do so notwithstanding that he has taken possession of it, endeavoured to sell it, or otherwise exercised rights of ownership in relation to it.
- (3) The following is onerous property for the purposes of this section—
 - (a) any unprofitable contract, and
 - (b) any other property of the company which is unsaleable or not readily saleable or is such that it may give rise to a liability to pay money or perform any other onerous act.
- (4) A disclaimer under this section—
 - (a) operates so as to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company in or in respect of the property disclaimed; but
 - (b) does not, except so far as is necessary for the purpose of releasing the company from any liability, affect the rights or liabilities of any other person.

Changes to legislation: Insolvency Act 1986, Section 178 is up to date with all changes known to be in force on or before 12 February 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) View outstanding changes

- (5) A notice of disclaimer shall not be given under this section in respect of any property if—
- (a) a person interested in the property has applied in writing to the liquidator or one of his predecessors as liquidator requiring the liquidator or that predecessor to decide whether he will disclaim or not, and
 - (b) the period of 28 days beginning with the day on which that application was made, or such longer period as the court may allow, has expired without a notice of disclaimer having been given under this section in respect of that property.
- (6) Any person sustaining loss or damage in consequence of the operation of a disclaimer under this section is deemed a creditor of the company to the extent of the loss or damage and accordingly may prove for the loss or damage in the winding up.

Modifications etc. (not altering text)

- C1** Pts. 1-4 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), reg. 2, **Sch. 1 para. 3** (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), 4)
- C2** S. 178 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), ss. 154, 155, 164(1), 182(4), **Sch. 22 para. 7(1)**; [S.I. 1991/878](#), art. 2, **Sch.**
 S. 178 excluded (11.12.1999) by [S.I. 1999/2979](#), **reg. 16(1)**
 S. 178 excluded (26.12.2003) by [The Financial Collateral Arrangements \(No. 2\) Regulations 2003 \(S.I. 2003/3226\)](#), **reg. 10(4)**
- C3** S. 178 restricted (1.1.1996) by [1995 c. 30, s. 21\(2\)\(b\)](#) (with ss. 1(1), 2(2), 26(1)); [S.I. 1995/2963](#), **art. 2**
- C4** S. 178 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**
- C5** S. 178 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145**, 263(1)(2) (with s. 247); [S.I. 2009/296](#), **arts. 2, 3**, **Sch. para. 3**
- C6** S. 178 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), Pt. 3 reg. 1, **Sch. 2 paras. 3, 5** Table (with reg. 24)
- C7** S. 178 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), regs. 2, **37** (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), 4, 11)
- C8** S. 178(2) excluded by 2009 c. 1, s. 66(3A) (as inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **74(5)**)
- C9** S. 178(2) excluded by 2009 c. 1, s. 67(6) (as substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **75(3)**)
- C10** S. 178(2) excluded by 2009 c. 1, s. 63(3A) (as inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **71(4)**)
- C11** S. 178(2) excluded (31.12.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), **Sch. 11 paras. 92(5), 93(5)**; [S.I. 2023/1382](#), reg. 8(b)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by [S.I. 2017/1119 Sch. 3 para. 1](#)
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)