



# 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

#### *Execution, attachment and the Scottish equivalents*

#### **185 Effect of diligence (Scotland)**

- (1) In the winding up of a company registered in Scotland, the following provisions of the Bankruptcy (Scotland) Act [F<sup>1</sup>2016]—
- (a) subsections (3) to (10) of section 23A (effect of sequestration on land attachment) and section 24 (effect of sequestration on diligence generally); and
  - (b) subsections (6), (7), (10) and (11) of section 109 (management and realisation of estate),]

apply so far as consistent with this Act, in like manner as they apply in the sequestration of a debtor's estate, with the substitutions specified below and with any other necessary modifications.

- (2) The substitutions to be made in those sections of the Act of [F<sup>2</sup>2016] are as follows—
- (a) for references to the debtor, substitute references to the company;
  - (b) for references to the sequestration, substitute references to the winding up;
  - (c) for references to the date of sequestration, substitute references to the commencement of the winding up of the company; and
  - (d) for references to the [F<sup>3</sup>permanent] trustee, substitute references to the liquidator.

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**Changes to legislation:** *Insolvency Act 1986, Section 185 is up to date with all changes known to be in force on or before 21 April 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*

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- (3) In this section, “the commencement of the winding up of the company” means, where it is being wound up by the court, the day on which the winding-up order is made.
- (4) This section, so far as relating to any estate or effects of the company situated in Scotland, applies in the case of a company registered in England and Wales as in the case of one registered in Scotland.

#### Textual Amendments

- F1** Words in s. 185(1) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 4(3)(a)**
- F2** Word in s. 185(2) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 4(3)(b)**
- F3** Word in s. 185(2)(d) repealed (S.) (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226(2), 227(3), **Sch. 6** (with s. 223); S.S.I. 2008/115, **art. 3(2)**, Sch. 2 (subject to art. 3(3)) (with arts. 5, 6, 10) (as amended by S.S.I. 2011/31, **art. 5**)

#### 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. 185 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), **ss. 154, 155, 161(4)**; S.I. 1991/878, art. 2, **Sch. .**  
 S. 185 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C3** S. 185 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
- C4** S. 185 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)
- C5** Ss. 185-189 applied (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 1 para. 3** (as amended by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **20**)
- C6** S. 185(1)(a)(2) applied by [Administration of Justice Act 1956 \(c. 46\)](#), s. 47G(3) (as substituted (S.) (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **Sch. 8 para. 4** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2)

**Changes to legislation:**

Insolvency Act 1986, Section 185 is up to date with all changes known to be in force on or before 21 April 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.

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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\(3\)\(b\)](#)