



Companies Act 1989

1989 CHAPTER 40

PART VII

FINANCIAL MARKETS AND INSOLVENCY

Recognised investment exchanges and clearing houses

161 Supplementary provisions as to default proceedings

- (1) If the court is satisfied on an application by a relevant office-holder that a party to a market contract with a defaulter intends to dissipate or apply his assets so as to prevent the office-holder recovering such sums as may become due upon the completion of the default proceedings, the court may grant such interlocutory relief (in Scotland, such interim order) as it thinks fit.
- (2) A liquidator or trustee of a defaulter or, in Scotland, a permanent trustee on the sequestrated estate of the defaulter shall not—
 - (a) declare or pay any dividend to the creditors, or
 - (b) return any capital to contributories,unless he has retained what he reasonably considers to be an adequate reserve in respect of any claims arising as a result of the default proceedings of the exchange or clearing house concerned.
- (3) The court may on an application by a relevant office-holder make such order as it thinks fit altering or dispensing from compliance with such of the duties of his office as are affected by the fact that default proceedings are pending or could be taken, or have been or could have been taken.
- (4) Nothing in section 10(1)(c), 11(3), 126, 128, 130, 185 or 285 of the Insolvency Act 1986 (which restrict the taking of certain legal proceedings and other steps), and nothing in any rule of law in Scotland to the like effect as the said section 285, in the Bankruptcy (Scotland) Act 1985 or in the Debtors (Scotland) Act 1987 as to the effect of sequestration, shall affect any action taken by an exchange or clearing house for the purpose of its default proceedings.