



Companies Act 1989

1989 CHAPTER 40

PART VII

FINANCIAL MARKETS AND INSOLVENCY

Recognised investment exchanges and clearing houses

165 Adjustment of prior transactions.

- (1) No order shall be made in relation to a transaction to which this section applies under—
 - (a) section 238 or 339 of the Insolvency Act 1986 (transactions at an under-value),
 - (b) section 239 or 340 of that Act (preferences), or
 - (c) section 423 of that Act (transactions defrauding creditors).
- (2) As respects Scotland, no decree shall be granted in relation to any such transaction—
 - (a) under section 34 or 36 of the ^{M1}Bankruptcy (Scotland) Act 1985 or section 242 or 243 of the Insolvency Act 1986 (gratuitous alienations and unfair preferences), or
 - (b) at common law on grounds of gratuitous alienations or fraudulent preferences.
- (3) This section applies to—
 - (a) a market contract to which a recognised investment exchange or recognised clearing house is a party or which is entered into under its default rules, ^{F1}...
 - ^{F2}(ab) a market contract to which this Part applies by virtue of section 155(2B), and
 - (b) a disposition of property in pursuance of a market contract referred to in paragraph (a) or (ab).]
- (4) Where margin is provided in relation to a market contract and (by virtue of subsection (3)(a)^{F3}, (3)(ab)] or otherwise) no such order or decree as is mentioned in subsection (1) or (2) has been, or could be, made in relation to that contract, this section applies to—
 - (a) the provision of the margin,

Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Section 165. (See end of Document for details)

- [^{F4}(ab) a qualifying collateral arrangement,]
 (b) any contract effected by the exchange or clearing house in question for the purpose of realising the property provided as margin, and
 (c) any disposition of property in accordance with the rules of the exchange or clearing house [^{F5}in question] as to the application of property provided as margin.

[^{F6}(5) This section also applies to—

- (a) the provision of default fund contribution to a recognised investment exchange or recognised clearing house,
 (b) any contract effected by a recognised investment exchange or recognised clearing house for the purpose of realising the property provided as default fund contribution, ^{F7}...
 (c) any disposition of property in accordance with the rules of the recognised investment exchange or recognised clearing house as to the application of property provided as default fund [^{F8}contribution,]
 [^{F9}(d) a transfer of a clearing member client contract, a client trade or a qualifying collateral arrangement as mentioned in paragraphs (c) to (e) of section 158(1), and
 (e) a qualifying property transfer.]]

Textual Amendments

- F1** Word in s. 165(3)(a) omitted (1.4.2013) by virtue of [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(a)** (with regs. 52-58)
- F2** S. 165(3)(ab)(b) substituted for s. 165(3)(b) (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(b)** (with regs. 52-58)
- F3** Words in s. 165(4) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(c)** (with regs. 52-58)
- F4** S. 165(4)(ab) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(d)** (with regs. 52-58)
- F5** Words in s. 165(4)(c) inserted (15.6.2009) by [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(9)(a)** (with reg. 1(2)(3))
- F6** S. 165(5) inserted (15.6.2009) by [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(9)(b)** (with reg. 1(2)(3))
- F7** Word in s. 165(5)(b) omitted (1.4.2013) by virtue of [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(e)** (with regs. 52-58)
- F8** Word in s. 165(5)(c) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(f)** (with regs. 52-58)
- F9** S. 165(5)(d)(e) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(g)** (with regs. 52-58)

Commencement Information

- I1** S. 165 wholly in force at 25.4.1991 see s. 215 and [S.I. 1991/878](#), art. 2, **Sch.**

Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.

*Changes to legislation: There are currently no known outstanding effects
for the Companies Act 1989, Section 165. (See end of Document for details)*

Marginal Citations

M1 1985 c. 66.

Status:

Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Companies Act 1989, Section 165.