



# Small Business, Enterprise and Employment Act 2015

## 2015 CHAPTER 26

### PART 10

#### INSOLVENCY

##### *Office-holder actions*

#### **119 Application of proceeds of office-holder claims**

After section 176ZA of the Insolvency Act 1986 insert—

##### **“176ZB Application of proceeds of office-holder claims**

- (1) This section applies where—
- (a) there is a floating charge (whether created before or after the coming into force of this section) which relates to property of a company which—
    - (i) is in administration, or
    - (ii) has gone into liquidation; and
  - (b) the administrator or the liquidator (referred to in this section as “the office-holder”) has—
    - (i) brought a claim under any provision mentioned in subsection (3), or
    - (ii) made an assignment (or, in Scotland, assignation) in relation to a right of action under any such provision under section 246ZD.
- (2) The proceeds of the claim or assignment (or, in Scotland, assignation) are not to be treated as part of the company’s net property, that is to say the amount of its property which would be available for satisfaction of claims of holders

of debentures secured by, or holders of, any floating charge created by the company.

- (3) The provisions are—
- (a) section 213 or 246ZA (fraudulent trading);
  - (b) section 214 or 246ZB (wrongful trading);
  - (c) section 238 (transactions at an undervalue (England and Wales));
  - (d) section 239 (preferences (England and Wales));
  - (e) section 242 (gratuitous alienations (Scotland));
  - (f) section 243 (unfair preferences (Scotland));
  - (g) section 244 (extortionate credit transactions).
- (4) Subsection (2) does not apply to a company if or in so far as it is disapplied by—
- (a) a voluntary arrangement in respect of the company, or
  - (b) a compromise or arrangement agreed under Part 26 of the Companies Act 2006 (arrangements and reconstructions).”