



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

#### WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

#### CHAPTER VI

#### WINDING UP BY THE COURT

#### *Enforcement of, and appeal from, orders*

#### **161 Orders for calls on contributories (Scotland).**

- (1) In Scotland, where an order, interlocutor or decree has been made for winding up a company by the court, it is competent to the court, on production by the liquidators of a list certified by them of the names of the contributories liable in payment of any calls, and of the amount due by each contributory, and of the date when that amount became due, to pronounce forthwith a decree against those contributories for payment of the sums so certified to be due, with interest from that date until payment (at 5 per cent. per annum) in the same way and to the same effect as if they had severally consented to registration for execution, on a charge of 6 days, of a legal obligation to pay those calls and interest.
- (2) The decree may be extracted immediately, and no suspension of it is competent, except on caution or consignment, unless with special leave of the court.

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#### **Modifications etc. (not altering text)**

- C1** S. 161 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

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*Changes to legislation: Insolvency Act 1986, Cross Heading: Enforcement of, and appeal from, orders is up to date with all changes known to be in force on or before 19 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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## 162 Appeals from orders in Scotland.

- (1) Subject to the provision of this section and to rules of court, an appeal from any order or decision made or given in the winding up of a company by the court in Scotland under this Act lies in the same manner and subject to the same conditions as an appeal from an order or decision of the court in cases within its ordinary jurisdiction.
- (2) In regard to orders of judgments pronounced by the judge acting as vacation judge [<sup>F1</sup>in pursuance of section 4 of the <sup>M1</sup>Administration of Justice (Scotland) Act 1933]—
  - (a) none of the orders specified in Part I of Schedule 3 to this Act are subject to review, reduction, suspension or stay of execution, and
  - (b) every other order or judgment (except as mentioned below) may be submitted to review by the Inner House by reclaiming motion enrolled within 14 days from the date of the order or judgment.
- (3) However, an order being one of those specified in Part II of that Schedule shall, from the date of the order and notwithstanding that it has been submitted to review as above, be carried out and receive effect until the Inner House have disposed of the matter.
- (4) In regard to orders or judgments pronounced in Scotland by a Lord Ordinary before whom proceedings in a winding up are being taken, any such order or judgment may be submitted to review by the Inner House by reclaiming motion enrolled within 14 days from its date; but should it not be so submitted to review during session, the provisions of this section in regard to orders or judgments pronounced by the judge acting as vacation judge apply.
- (5) Nothing in this section affects provisions of [<sup>F2</sup>the Companies Acts] or this Act in reference to decrees in Scotland for payment of calls in the winding up of companies, whether voluntary or by the court.

### Textual Amendments

- F1** Words repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), [Sch. 2](#)
- F2** Words in s. 162(5) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009, \(S.I. 2009/1941\)](#) arts. 2(1), 8, {[Sch. 1 para. 75\(19\)](#)} (with art. 10, [Sch. 1 para. 84](#))

### Modifications etc. (not altering text)

- C2** S. 162 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128](#), [reg. 4\(1\)](#), [Sch. 2](#)
- C3** S. 162 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. 162 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), [Pt. 3reg. 1](#), [Sch. 2 paras. 3](#), [5 Table](#) (with [reg. 24](#))
- C5** S. 162 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](#))

### Marginal Citations

- M1** [1933 c. 41](#).

**Changes to legislation:**

Insolvency Act 1986, Cross Heading: Enforcement of, and appeal from, orders is up to date with all changes known to be in force on or before 19 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\(3\)\(b\)](#)