



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART VI

#### MISCELLANEOUS PROVISIONS APPLYING TO COMPANIES WHICH ARE INSOLVENT OR IN LIQUIDATION

##### *Management by administrators, liquidators, etc.*

#### **233 Supplies of gas, water, electricity, etc.**

- (1) This section applies in the case of a company where—
- [<sup>F1</sup>(a) the company enters administration,]
  - (b) an administrative receiver is appointed, or
  - [<sup>F2</sup>(ba) a moratorium under section 1A is in force, or]
  - (c) a voluntary arrangement [<sup>F3</sup>approved under Part I], has taken effect, or
  - (d) the company goes into liquidation, or
  - (e) a provisional liquidator is appointed;

and “the office-holder” means the administrator, the administrative receiver, [<sup>F4</sup>the nominee,] the supervisor of the voluntary arrangement, the liquidator or the provisional liquidator, as the case may be.

- (2) If a request is made by or with the concurrence of the office-holder for the giving, after the effective date, of any of the supplies mentioned in the next subsection, the supplier—
- (a) may make it a condition of the giving of the supply that the office-holder personally guarantees the payment of any charges in respect of the supply, but
  - (b) shall not make it a condition of the giving of the supply, or do anything which has the effect of making it a condition of the giving of the supply, that any outstanding charges in respect of a supply given to the company before the effective date are paid.
- (3) The supplies referred to in subsection (2) are—

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- [<sup>F5</sup>(a) a supply of gas by a gas supplier within the meaning of Part I of the Gas Act 1986;]
  - [<sup>F6</sup>(b) a supply of electricity by an electricity supplier within the meaning of Part I of the Electricity Act 1989;]
  - (c) a supply of water by [<sup>F7</sup>a water undertaker] or, in Scotland, [<sup>F8</sup>Scottish Water],
  - [<sup>F9</sup>(d) a supply of communications services by a provider of a public electronic communications service.]
- (4) “The effective date” for the purposes of this section is whichever is applicable of the following dates—
- [<sup>F10</sup>(a) the date on which the company entered administration]
  - (b) the date on which the administrative receiver was appointed (or, if he was appointed in succession to another administrative receiver, the date on which the first of his predecessors was appointed),
  - [<sup>F11</sup>(ba) the date on which the moratorium came into force]
  - (c) the date on which the voluntary arrangement [<sup>F12</sup>took effect],
  - (d) the date on which the company went into liquidation,
  - (e) the date on which the provisional liquidator was appointed.
- (5) The following applies to expressions used in subsection (3)—
- (a) <sup>F13</sup> .....
  - (b) <sup>F14</sup> .....
  - (c) <sup>F15</sup> .....
  - [<sup>F16</sup>(d) “communications services” do not include electronic communications services to the extent that they are used to broadcast or otherwise transmit programme services (within the meaning of the Communications Act 2003).]

#### Textual Amendments

- F1** S. 233(1)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 22(a) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2, Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F2** S. 233(1)(ba) inserted (1.1.2003) by 2000 c. 39, s. 1, Sch. 1 para. 8(2)(a); S.I. 2002/2711, art. 2 (subject to transitional provisions in arts. 3-5)
- F3** Words in s. 233(1)(c) inserted (1.1.2003) by 2000 c. 39, s. 1, Sch. 1 para. 8(2)(b); S.I. 2002/2711, art. 2 (subject to transitional provisions in arts. 3-5)
- F4** Words in s. 233(1) inserted (1.1.2003) by 2000 c. 39, s. 1, Sch. 1 para. 8(2)(b); S.I. 2002/2711, art. 2 (subject to transitional provisions in arts. 3-5)
- F5** S. 233(3)(a) substituted (1.3.1996) by 1995 c. 45, s. 16(1), Sch. 4 para. 14(1); S.I. 1996/218, art. 2
- F6** S. 233(3)(b) substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 para. 47(2)(a); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to arts. 3-20)
- F7** Words substituted by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 25 para. 78(1) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F8** Words in s. 233(3)(c) substituted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 2, Sch. Pt. 1 para. 14(a)
- F9** S. 233(3)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, Sch. 17 para. 82(a) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), 3(1) (with art. 3(2) (as amended (8.12.2003) by 2003/3142, art. 1(3))); S.I. 2003/3142, art. 3(2) (with art. 11)
- F10** S. 233(4)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 22(b) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2, Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

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- F11** S. 233(4)(ba) inserted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 8(3)(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)
- F12** Words in s. 233(4)(c) substituted (1.1.2003) by 2000 c. 39, s. 1, **Sch. 1 para. 8(3)(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in arts. 3-5)
- F13** S. 233(5)(a) repealed (1.3.1996) by 1995 c. 45, ss. 16(1), 17(5), Sch. 4 para. 14(2), **Sch. 6**; S.I. 1996/218, **art. 2**
- F14** S. 233(5)(b) repealed (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 para. 47(2)(b), **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to arts. 3-20)
- F15** S. 233(5)(c) repealed (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 2, **Sch. Pt. 1 para. 14(b)**
- F16** S. 233(5)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 82(b)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1) (with art. 3(2) (as amended (8.12.2003) by 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

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

- C1** S. 233 applied (1.12.1994) by S.I. 1994/2421, **art. 4(3)(a)**  
S. 233 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C2** S. 233 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
- C3** S. 233 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. **145**, 263(1)(2) (with s. 247); S.I. 2009/296, arts. **2**, 3, Sch. para. 3
- C4** S. 233(1)(4) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), Sch. 3 (which reference to s. 233 in Sch. 3 of the modifying S.S.I. was omitted (1.10.2009) by virtue of S.S.I. 2009/310, reg. 4, **Sch. 2 para. 1(b)**)
- C5** S. 233(1)(4) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**

## **234 Getting in the company's property.**

- (1) This section applies in the case of a company where—
- [<sup>F17</sup>(a) the company enters administration,]
  - (b) an administrative receiver is appointed, or
  - (c) the company goes into liquidation, or
  - (d) a provisional liquidator is appointed;
- and “the office-holder” means the administrator, the administrative receiver, the liquidator or the provisional liquidator, as the case may be.
- (2) Where any person has in his possession or control any property, books, papers or records to which the company appears to be entitled, the court may require that person forthwith (or within such period as the court may direct) to pay, deliver, convey, surrender or transfer the property, books, papers or records to the office-holder.
- (3) Where the office-holder—
- (a) seizes or disposes of any property which is not property of the company, and
  - (b) at the time of seizure or disposal believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,
- the next subsection has effect.
- (4) In that case the office-holder—

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- (a) is not liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as that loss or damage is caused by the office-holder's own negligence, and
- (b) has a lien on the property, or the proceeds of its sale, for such expenses as were incurred in connection with the seizure or disposal.

#### Textual Amendments

**F17** S. 234(1)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 23 (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

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

- C6** S. 234 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 7(3), **Sch. 3 Pt. II para. 9**  
S. 234 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 8(3)(9), **Sch. 4 Pt. II para. 27**
- C7** S. 234 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2 (as amended (1.10.2009) by S.S.I. 2009/310, reg. 3, **Sch. 1 para. 1(a)**)
- C8** S. 234 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**
- C9** S. 234 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1), ss. 145, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 3**

### 235 Duty to co-operate with office-holder.

- (1) This section applies as does section 234; and it also applies, in the case of a company in respect of which a winding-up order has been made by the court in England and Wales, as if references to the office-holder included the official receiver, whether or not he is the liquidator.
- (2) Each of the persons mentioned in the next subsection shall—
  - (a) give to the office-holder such information concerning the company and its promotion, formation, business, dealings, affairs or property as the office-holder may at any time after the effective date reasonably require, and
  - (b) attend on the office-holder at such times as the latter may reasonably require.
- (3) The persons referred to above are—
  - (a) those who are or have at any time been officers of the company,
  - (b) those who have taken part in the formation of the company at any time within one year before the effective date,
  - (c) those who are in the employment of the company, or have been in its employment (including employment under a contract for services) within that year, and are in the office-holder's opinion capable of giving information which he requires,
  - (d) those who are, or have within that year been, officers of, or in the employment (including employment under a contract for services) of, another company which is, or within that year was, an officer of the company in question, and
  - (e) in the case of a company being wound up by the court, any person who has acted as administrator, administrative receiver or liquidator of the company.
- (4) For the purposes of subsections (2) and (3), "the effective date" is whichever is applicable of the following dates—
  - <sup>F18</sup>(a) the date on which the company entered administration,]

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- (b) the date on which the administrative receiver was appointed or, if he was appointed in succession to another administrative receiver, the date on which the first of his predecessors was appointed,
  - (c) the date on which the provisional liquidator was appointed, and
  - (d) the date on which the company went into liquidation.
- (5) If a person without reasonable excuse fails to comply with any obligation imposed by this section, he is liable to a fine and, for continued contravention, to a daily default fine.

#### Textual Amendments

**F18** S. 235(4)(a) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 24 (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

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

**C10** S. 235 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), Sch. 2 (as amended (1.10.2009) by S.S.I. 2009/310, reg. 3, Sch. 1 para. 1(b))

**C11** S. 235 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

**C12** S. 235 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 145, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 3

## 236 Inquiry into company's dealings, etc.

- (1) This section applies as does section 234; and it also applies in the case of a company in respect of which a winding-up order has been made by the court in England and Wales as if references to the office-holder included the official receiver, whether or not he is the liquidator.
- (2) The court may, on the application of the office-holder, summon to appear before it—
- (a) any officer of the company,
  - (b) any person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or
  - (c) any person whom the court thinks capable of giving information concerning the promotion, formation, business, dealings, affairs or property of the company.
- (3) The court may require any such person as is mentioned in subsection (2)(a) to (c) to submit an affidavit to the court containing an account of his dealings with the company or to produce any books, papers or other records in his possession or under his control relating to the company or the matters mentioned in paragraph (c) of the subsection.
- (4) The following applies in a case where—
- (a) a person without reasonable excuse fails to appear before the court when he is summoned to do so under this section, or
  - (b) there are reasonable grounds for believing that a person has absconded, or is about to abscond, with a view to avoiding his appearance before the court under this section.

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- (5) The court may, for the purpose of bringing that person and anything in his possession before the court, cause a warrant to be issued to a constable or prescribed officer of the court—
- (a) for the arrest of that person, and
  - (b) for the seizure of any books, papers, records, money or goods in that person's possession.
- (6) The court may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until that person is brought before the court under the warrant or until such other time as the court may order.

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

- C13** S. 236 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\), Sch. 2](#) (as amended (1.10.2009) by [S.S.I. 2009/310, reg. 3, Sch. 1 para. 1\(c\)](#))
- C14** S. 236 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](#)
- C15** S. 236 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\), ss. 145, 263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296, arts. 2, 3, Sch. para. 3](#)

**237 Court's enforcement powers under s. 236.**

- (1) If it appears to the court, on consideration of any evidence obtained under section 236 or this section, that any person has in his possession any property of the company, the court may, on the application of the office-holder, order that person to deliver the whole or any part of the property to the office-holder at such time, in such manner and on such terms as the court thinks fit.
- (2) If it appears to the court, on consideration of any evidence so obtained, that any person is indebted to the company, the court may, on the application of the office-holder, order that person to pay to the office holder, at such time and in such manner as the court may direct, the whole or any part of the amount due, whether in full discharge of the debt or otherwise, as the court thinks fit.

the court may, if it thinks fit, order that any person who if within the jurisdiction of the court would be liable to be summoned to appear before it under section 236 or this section shall be examined in any part of the United Kingdom where he may for the time being be, or in a place outside the United Kingdom.

- (4) Any person who appears or is brought before the court under section 236 or this section may be examined on oath, either orally or (except in Scotland) by interrogatories, concerning the company or the matters mentioned in section 236(2)(c).

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

- C16** S. 237 applied (with modifications) (S.) (6.4.2001) by [S.S.I. 2001/128, reg. 4\(1\), Sch. 2](#) (as amended (1.10.2009) by [S.S.I. 2009/310, reg. 3, Sch. 1 para. 1\(c\)](#))
- C17** S. 237 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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**C18** S. 237 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 145, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3

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