



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

### CHAPTER VI

#### WINDING UP BY THE COURT

#### *Appointment of liquidator*

#### **136 Functions of official receiver in relation to office of liquidator.**

- (1) The following provisions of this section have effect, subject to section 140 below, on a winding-up order being made by the court in England and Wales.
- (2) The official receiver, by virtue of his office, becomes the liquidator of the company and continues in office until another person becomes liquidator under the provisions of this Part.
- (3) The official receiver is, by virtue of his office, the liquidator during any vacancy.
- (4) At any time when he is the liquidator of the company, the official receiver may [<sup>F1</sup>in accordance with the rules seek nominations from] the company's creditors and contributories for the purpose of choosing a person to be liquidator of the company in place of the official receiver.
- (5) It is the duty of the official receiver—
  - (a) as soon as practicable in the period of 12 weeks beginning with the day on which the winding-up order was made, to decide whether to exercise his power under sub-section (4) <sup>F2</sup>... , and
  - (b) if in pursuance of paragraph (a) he decides not to exercise that power, to give notice of his decision, before the end of that period, to the court and to the company's creditors and contributories, and

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*Changes to legislation: Insolvency Act 1986, Section 136 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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- (c) (whether or not he has decided to exercise that power) to exercise his power<sup>F3</sup> ... under subsection (4) if he is at any time requested, in accordance with rules, to do so by one-quarter, in value, of the company's creditors; and accordingly, where the duty imposed by paragraph (c) arises before the official receiver has performed a duty imposed by paragraph (a) or (b), he is not required to perform the latter duty.
- (6) A notice given under subsection (5)(b) to the company's creditors shall contain an explanation of the creditors' power under subsection (5)(c) to require the official receiver to [<sup>F4</sup>seek nominations from] the company's creditors and contributories.

#### Textual Amendments

- F1** Words in s. 136(4) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 31\(2\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F2** Words in s. 136(5)(a) omitted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 31\(3\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F3** Words in s. 136(5)(c) omitted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 31\(3\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)
- F4** Words in s. 136(6) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force, 6.4.2019 for S. in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 9 para. 31\(4\)](#); S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3); S.I. 2019/816, reg. 4(c) (with reg. 5)

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

- C1** S. 136 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 8(3)(9), [Sch. 4 Pt. II, para. 12](#)
- C2** S. 136 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\), Pt. 3 reg. 1, Sch. 2 paras. 3, 5 Table \(with reg. 24\)](#)

**Changes to legislation:**

Insolvency Act 1986, Section 136 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\(3\)\(b\)](#)