



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER III

MEMBERS' VOLUNTARY WINDING UP

95 Effect of company's insolvency.

(1) This section applies where the liquidator is of the opinion that the company will be unable to pay its debts in full (together with interest at the official rate) within the period stated in the directors' declaration under section 89.

[^{F1}(1A) The liquidator must before the end of the period of 7 days beginning with the day after the day on which the liquidator formed that opinion—

- (a) make out a statement in the prescribed form as to the affairs of the company, and
- (b) send it to the company's creditors.]

^{F2}(2)

^{F2}(2A)

^{F2}(3)

(4) The statement as to the affairs of the company ^{F3} . . . shall show—

- (a) particulars of the company's assets, debts and liabilities;
- (b) the names and addresses of the company's creditors;
- (c) the securities held by them respectively;
- (d) the dates when the securities were respectively given; and
- (e) such further or other information as may be prescribed.

Changes to legislation: Insolvency Act 1986, Section 95 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

- [^{F4}(4A) The statement as to the affairs of the company shall be ^{F5}...—
- (a) in the case of a winding up of a company registered in England and Wales [^{F6}be verified by the liquidator], by a statement of truth; and
 - (b) in the case of a winding up of a company registered in Scotland, [^{F7}contain a statutory declaration by the liquidator].]
- [^{F8}(4B) The company's creditors may in accordance with the rules nominate a person to be liquidator.
- (4C) The liquidator must in accordance with the rules seek such a nomination from the company's creditors.]
- ^{F9}(5)
- ^{F9}(6)
- ^{F9}(7)
- (8) If the liquidator without reasonable excuse fails to comply with [^{F10}subsections (1) to (4A)], he is liable to a fine.

Textual Amendments

- F1** S. 95(1A) inserted (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. 19\(2\)](#); 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** S. 95(2)-(3) 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. 19\(3\)](#); 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. 95(4) omitted (6.4.2010) by virtue of [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\), art. 5\(2\)\(a\)](#)
- F4** S. 95(4A) inserted (6.4.2010) by [The Legislative Reform \(Insolvency\) \(Miscellaneous Provisions\) Order 2010 \(S.I. 2010/18\), art. 5\(2\)\(b\)](#)
- F5** Words in s. 95(4A) repealed (S.) (1.4.2016 for specified purposes, 6.4.2019 in so far as not already in force) by [The Public Services Reform \(Insolvency\) \(Scotland\) Order 2016 \(S.S.I. 2016/141\), arts. 1\(2\)-\(4\), 8\(a\)](#) (with arts. 14, 15) (see S.I. 2019/816, reg. 4(a))
- F6** Words in s. 95(4A)(a) inserted (S.) (1.4.2016 for specified purposes, 6.4.2019 in so far as not already in force) by [The Public Services Reform \(Insolvency\) \(Scotland\) Order 2016 \(S.S.I. 2016/141\), arts. 1\(2\)-\(4\), 8\(b\)](#) (with arts. 14, 15) (see S.I. 2019/816, reg. 4(a))
- F7** Words in s. 95(4A)(b) substituted (S.) (1.4.2016 for specified purposes, 6.4.2019 in so far as not already in force) by [The Public Services Reform \(Insolvency\) \(Scotland\) Order 2016 \(S.S.I. 2016/141\), arts. 1\(2\)-\(4\), 8\(c\)](#) (with arts. 14, 15) (see S.I. 2019/816, reg. 4(a))
- F8** S. 95(4B)(4C) inserted (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. 19\(4\)](#); 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)
- F9** S. 95(5)-(7) 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. 19\(3\)](#); 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)
- F10** Words in s. 95(8) 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](#)

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Employment Act 2015 (c. 26), s. 164(1), **Sch. 9 para. 19(5)**; 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. 95 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
S. 95 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**
- C2** S. 95 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**)

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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\(3\)\(b\)](#)