



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IV

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

### CHAPTER III

#### MEMBERS' VOLUNTARY WINDING UP

#### **[<sup>F1</sup>96 Conversion to creditors' voluntary winding up.**

- (1) The winding up becomes a creditors' voluntary winding up as from the day on which—
  - (a) the company's creditors under section 95 nominate a person to be liquidator, or
  - (b) the procedure by which the company's creditors were to have made such a nomination concludes without a nomination having been made.
- (2) As from that day this Act has effect as if the directors' declaration under section 89 had not been made.
- (3) The liquidator in the creditors' voluntary winding up is to be the person nominated by the company's creditors under section 95 or, where no person has been so nominated, the existing liquidator.
- (4) In the case of the creditors nominating a person other than the existing liquidator any director, member or creditor of the company may, within 7 days after the date on which the nomination was made by the creditors, apply to the court for an order either—
  - (a) directing that the existing liquidator is to be liquidator instead of or jointly with the person nominated by the creditors, or
  - (b) appointing some other person to be liquidator instead of the person nominated by the creditors.

[ The court shall grant an application under subsection (4) made by the holder of a <sup>F2</sup>(4A) qualifying floating charge in respect of the company's property (within the meaning of

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**Changes to legislation:** *Insolvency Act 1986, Section 96 is up to date with all changes known to be in force on or before 21 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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paragraph 14 of Schedule B1) unless the court thinks it right to refuse the application because of the particular circumstances of the case.]

- (5) The “existing liquidator” is the person who is liquidator immediately before the winding up becomes a creditors' voluntary winding up.]

#### **Textual Amendments**

- F1** S. 96 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. 20\(1\)](#); 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. 96(4A) 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. 20\(2\)](#); 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)

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