



# Companies Act 1989

## 1989 CHAPTER 40

### PART VII

#### FINANCIAL MARKETS AND INSOLVENCY

#### *[<sup>F1</sup>Recognised bodies]*

#### **165 Adjustment of prior transactions.**

- (1) No order shall be made in relation to a transaction to which this section applies under—
  - (a) section 238 or 339 of the Insolvency Act 1986 (transactions at an under-value),
  - (b) section 239 or 340 of that Act (preferences), or
  - (c) section 423 of that Act (transactions defrauding creditors).
- (2) As respects Scotland, no decree shall be granted in relation to any such transaction—
  - (a) under section [<sup>F1</sup>98 or 99 of the Bankruptcy (Scotland) Act 2016] or section 242 or 243 of the Insolvency Act 1986 (gratuitous alienations and unfair preferences), or
  - (b) at common law on grounds of gratuitous alienations or fraudulent preferences.
- (3) This section applies to—
  - (a) a market contract to which a [<sup>F2</sup>recognised body] is a party or which is entered into under its default rules, <sup>F3</sup>...
  - [<sup>F4</sup>(ab) a market contract to which this Part applies by virtue of section 155(2B), and
  - (b) a disposition of property in pursuance of a market contract referred to in paragraph (a) or (ab).]
- (4) Where margin is provided in relation to a market contract and (by virtue of subsection (3)(a)[<sup>F5</sup>, (3)(ab)] or otherwise) no such order or decree as is mentioned in subsection (1) or (2) has been, or could be, made in relation to that contract, this section applies to—
  - (a) the provision of the margin,

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Section 165. (See end of Document for details)*

- [<sup>F6</sup>(ab) a qualifying collateral arrangement,]
- (b) any contract effected by [<sup>F7</sup>the recognised body] in question for the purpose of realising the property provided as margin, and
- (c) any disposition of property in accordance with the rules of [<sup>F8</sup>the recognised body][<sup>F9</sup>: in question] as to the application of property provided as margin.

[<sup>F10</sup>(5) This section also applies to—

- (a) the provision of default fund contribution to a [<sup>F11</sup>recognised body],
- (b) any contract effected by a [<sup>F12</sup>recognised body] for the purpose of realising the property provided as default fund contribution, <sup>F13</sup>...
- (c) any disposition of property in accordance with the rules of the [<sup>F14</sup>recognised body] as to the application of property provided as default fund [<sup>F15</sup>contribution,]
- [<sup>F16</sup>(d) a transfer of a clearing member client contract, a client trade or a qualifying collateral arrangement as mentioned in paragraphs (c) to (e) of section 158(1), and
- (e) a qualifying property transfer.]]

#### Textual Amendments

- F1** Words in s. 165(2)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 6(6)**
- F2** Words in s. 165(3)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(12)(a)** (with regs. 7(4), 9(1))
- F3** Word in s. 165(3)(a) omitted (1.4.2013) by virtue of [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(a)** (with regs. 52-58)
- F4** S. 165(3)(ab)(b) substituted for s. 165(3)(b) (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(b)** (with regs. 52-58)
- F5** Words in s. 165(4) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(c)** (with regs. 52-58)
- F6** S. 165(4)(ab) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(d)** (with regs. 52-58)
- F7** Words in s. 165(4)(b) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(12)(b)** (with regs. 7(4), 9(1))
- F8** Words in s. 165(4)(c) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(12)(b)** (with regs. 7(4), 9(1))
- F9** Words in s. 165(4)(c) inserted (15.6.2009) by [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(9)(a)** (with reg. 1(2)(3))
- F10** S. 165(5) inserted (15.6.2009) by [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(9)(b)** (with reg. 1(2)(3))
- F11** Words in s. 165(5)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(12)(a)** (with regs. 7(4), 9(1))
- F12** Words in s. 165(5)(b) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(12)(a)** (with regs. 7(4), 9(1))
- F13** Word in s. 165(5)(b) omitted (1.4.2013) by virtue of [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(10)(e)** (with regs. 52-58)

---

*Changes to legislation: There are currently no known outstanding effects  
for the Companies Act 1989, Section 165. (See end of Document for details)*

---

- F14** Words in s. 165(5)(c) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(12)(a)** (with regs. 7(4), 9(1))
- F15** Word in s. 165(5)(c) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **4(10)(f)** (with regs. 52-58)
- F16** S. 165(5)(d)(e) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **4(10)(g)** (with regs. 52-58)

---

**Commencement Information**

- I1** S. 165 wholly in force at 25.4.1991 see s. 215 and S.I. 1991/878, art. 2, **Sch.**

**Changes to legislation:**

There are currently no known outstanding effects for the Companies Act 1989, Section 165.