



Companies Act 1947

1947 CHAPTER 47 10 and 11 Geo 6

PART V

WINDING UP

90^{F1}

Textual Amendments

F1 Ss. 1–57, 59–90, 93–98, 100–114 repealed by Companies Act 1948 (c. 38), s. 459, Sch. 17 Pt. I

[^{F2}91 Amendments as to preferential payments.

- (1) The maximum amount to which, under subsection (1) of section two hundred and sixty-four of the principal Act, priority is to be given—
 - (a) to a debt for the wages or salary of a clerk or servant; or
 - (b) to a debt for the wages of a workman or labourer; or
 - (c) to any sum ordered under the ^{M1}Reinstatement in Civil Employment Act 1944 to be paid by way of compensation;

shall be two hundred pounds (instead of being fifty pounds in the cases referred to in paragraphs (a) and (c) of this subsection or twenty-five pounds in the case referred to in paragraph (b) thereof).

- (2) The period within which services must have been rendered by a workman or labourer for his wages in respect thereof to have priority under the said subsection (1) shall be the same as in the case of a clerk or servant, that is to say, four months (instead of two months).

(3)^{F3}

- (4) For the purposes of the said sections two hundred and sixty-four . . . ^{F4} any remuneration in respect of a period of holiday or of absence from work through

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1947, Part V. (See end of Document for details)

sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

- (5) The debts which are to be paid in priority under the said section two hundred and sixty-four shall include all accrued holiday remuneration becoming payable to a clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment with the company before or by the effect of the winding up order or resolution; . . . ^{F4}
- (6) For the purposes of this section—
 - (a) the expression “accrued holiday remuneration” includes in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment (including any order made or direction given under any Act), are payable on account of the remuneration which would in the ordinary course have become payable to him in respect of a period of holiday had his employment with the company continued until he became entitled to be allowed the holiday; and
 - (b) references to remuneration in respect of a period of holiday include any sums which, if they had been paid, would have been treated for the purposes of the ^{M2}National Insurance Act 1946 or any enactment repealed by that Act as remuneration in respect of that period.
- (7) ^{F3}]

Textual Amendments	
F2	S. 91 repealed (E.W.) by Insolvency Act 1985 (c. 65, SIF 66) , s. 235, Sch. 10 Pt. III , Insolvency Act 1986 (c. 45, SIF 66) , s. 437, Sch. 11 para. 10(2) and repealed (S.) by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66) , s. 75(2), Sch. 8
F3	S. 91(3)(7)(8) repealed by Companies Act 1948 (c. 38) , s. 459, Sch. 17 Pt. I and expressed to be repealed (S.) by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66) , s. 75(2), Sch. 8 , and (E.W.) by Insolvency Act 1985 (c. 65, SIF 66) s. 235, Sch. 10 Pt. III , Insolvency Act 1986 (c. 45, SIF 66) , s. 437, Sch. 11 para. 10(2)
F4	Words repealed by Companies Act 1948 (c. 38) , s. 459, Sch. 17 Pt. I
Modifications etc. (not altering text)	
C1	S. 91, except so far as it has effect for the purposes of s. 115(1) of this Act, repealed by Companies Act 1948 (c. 38) , s. 459, Sch. 17 Pt. II
Marginal Citations	
M1	1944 c. 15.
M2	1946 c. 67.

[^{F5}92 **Amendments as to fraudulent preference.**

- (1) ^{F6}
- (2) Where, in the case of a company wound up in England, anything made or done after the coming into force of this section is void under the said section two hundred and sixty-five as a fraudulent preference of a person interested in property mortgaged or charged to secure the company’s debt, then (without prejudice to any rights or liabilities arising apart from this provision) the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as surety

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1947, Part V. (See end of Document for details)

for the debt to the extent of the charge on the property or the value of his interest, whichever is the less.

- (3) The value of the said person's interest shall be determined as at the date of the transaction constituting the fraudulent preference, and shall be determined as if the interest were free of all incumbrances other than those to which the charge for the company's debt was then subject.
- (4) On any application made to the court with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the court shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up, and for that purpose may give leave to bring in the surety or guarantor as a third party as in the case of an action for the recovery of the sum paid. This subsection shall apply, with the necessary modifications, in relation to transactions other than the payment of money as it applies in relation to payments.]

Textual Amendments

- F5** S. 92 repealed (E.W.) by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 10 Pt. III](#), [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, [Sch. 11 para. 10\(2\)](#)
- F6** Ss. 92(1), 121 repealed by [Companies Act 1948 \(c. 38\)](#), s. 459, [Sch. 17 Pt. I](#) and expressed to be repealed (E.W.) by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 10, Pt. III](#), [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, [Sch. 11 para. 10\(2\)](#)

Modifications etc. (not altering text)

- C2** S. 92, except as applied by s. 115(4) of this Act, repealed by [Companies Act 1948 \(c. 38\)](#), s. 459, [Sch. 17 Pt. II](#)
- C3** The "said section two hundred and sixty-five" means [Companies Act 1929 \(c. 23\)](#), s. 265

93— F7
98.

Textual Amendments

- F7** Ss. 1–57, 59–90, 93–98, 100–114 repealed by [Companies Act 1948 \(c. 38\)](#), s. 459, [Sch. 17 Pt. I](#)

[^{F8}99] **Liability for rentcharge on company's land after dissolution or disclaimer.**

- (1) Where by operation of law land in England vests subject to a rentcharge in the Crown or any other person either—
 - (a) on the dissolution of a company; or
 - (b) on a disclaimer under section two hundred and sixty-seven of the principal Act;that shall not, subject to the next following subsection, impose on the Crown or the said other person or its or his successors in title any personal liability in respect of the rentcharge.
- (2) This section shall not affect any liability in respect of sums accruing due after the Crown or the said other person, or some person claiming through or under the Crown

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1947, Part V. (See end of Document for details)

or the said other person, has taken possession or control of the land or has entered into occupation thereof.

(3) This section shall apply to land vesting and sums accruing due before, as well as after, the coming into force thereof.

(4) In this section the expression “company” includes any body corporate.]

Textual Amendments

F8 S. 99 repealed (E. W.) by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 10 Pt. III](#), [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, [Sch. 11 para. 10\(2\)](#)

Modifications etc. (not altering text)

C4 S. 99, except as applied by s. 115(5) of this Act, repealed by [Companies Act 1948 \(c. 38\)](#), s. 459, [Sch. 17 Pt. II](#)

100, **F9**
101.

Textual Amendments

F9 Ss. 1–57, 59–90, 93–98, 100–114 repealed by [Companies Act 1948 \(c. 38\)](#), s. 459, [Sch. 17 Pt. I](#)

Changes to legislation:

There are currently no known outstanding effects for the Companies Act 1947, Part V.