



Insolvency Act 1985

1985 CHAPTER 65

PART III

INDIVIDUAL INSOLVENCY

CHAPTER VI

EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS, TRANSACTIONS ETC

Transactions etc.

176 Extortionate credit transactions

- (1) This section applies where a person who is or has been a party to a transaction for, or involving, the provision to him of credit is adjudged bankrupt.
- (2) The court may, on the application of the trustee of the bankrupt's estate, make an order with respect to the transaction if the transaction is or was extortionate and was not entered into more than three years before the commencement of the bankruptcy.
- (3) For the purposes of this section a transaction is extortionate if, having regard to the risk accepted by the person providing the credit—
 - (a) the terms of it are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of the credit; or
 - (b) it otherwise grossly contravened ordinary principles of fair dealing;and it shall be presumed, unless the contrary is proved, that a transaction with respect to which an application is made under this section is or, as the case may be, was extortionate.
- (4) An order under this section with respect to any transaction may contain such one or more of the following as the court thinks fit, that is to say—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) provision setting aside the whole or part of any obligation created by the transaction ;
 - (b) provision otherwise varying the terms of the transaction or varying the terms on which any security for the purposes of the transaction is held ;
 - (c) provision requiring any person who is or was party to the transaction to pay to the trustee any sums paid to that person, by virtue of the transaction, by the bankrupt;
 - (d) provision requiring any person to surrender to the trustee any property held by him as security for the purposes of the transaction ;
 - (e) provision directing accounts to be taken between any persons.
- (5) Any sums or property required to be paid or surrendered to the trustee in accordance with an order under this section shall be comprised in the bankrupt's estate.
- (6) Neither the trustee of a bankrupt's estate nor an undischarged bankrupt shall be entitled to make an application under section 139(1)(a) of the Consumer Credit Act 1974 (re-opening of extortionate credit agreements) for any agreement by which credit is or has been provided to the bankrupt to be re-opened ; but the powers conferred by this section shall be exercisable in relation to any transaction concurrently with any powers exercisable under this Act in relation to that transaction as a transaction at an undervalue.