



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER V

##### EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS TRANSACTIONS, ETC.

##### *Adjustment of prior transactions, etc.*

#### **340 Preferences.**

- (1) Subject as follows in this and the next two sections, where an individual is <sup>[F1]</sup>made bankrupt and he has at a relevant time (defined in section 341) given a preference to any person, the trustee of the bankrupt's estate may apply to the court for an order under this section.
- (2) The court shall, on such an application, make such order as it thinks fit for restoring the position to what it would have been if that individual had not given that preference.
- (3) For the purposes of this and the next two sections, an individual gives a preference to a person if—
  - (a) that person is one of the individual's creditors or a surety or guarantor for any of his debts or other liabilities, and
  - (b) the individual does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event of the individual's bankruptcy, will be better than the position he would have been in if that thing had not been done.
- (4) The court shall not make an order under this section in respect of a preference given to any person unless the individual who gave the preference was influenced in deciding

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**Changes to legislation:** *Insolvency Act 1986, Section 340 is up to date with all changes known to be in force on or before 09 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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to give it by a desire to produce in relation to that person the effect mentioned in subsection (3)(b) above.

- (5) An individual who has given a preference to a person who, at the time the preference was given, was an associate of his (otherwise than by reason only of being his employee) is presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in subsection (4).
- (6) The fact that something has been done in pursuance of the order of a court does not, without more, prevent the doing or suffering of that thing from constituting the giving of a preference.

#### Textual Amendments

- F1** Word in s. 340(1) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 32](#); S.I. 2016/191, art. 2 (with art. 3)

#### Modifications etc. (not altering text)

- C1** S. 340 applied (with modifications) by S.I. 1986/1999, art. 3, [Sch. 1 Pt. II](#)  
 S. 340 applied (with modifications) (4.4.2006) by [The Cross-Border Insolvency Regulations 2006 \(S.I. 2006/1030\)](#), [reg. 2](#), [Sch. 1 Art. 23 paras. 1-3](#) (subject to [Sch. 1 Art. 23 paras. 6-9](#))
- C2** S. 340 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), [ss. 154](#), 155, 165(1)(b); S.I. 1991/878, [art. 2](#), [Sch.](#)
- C3** S. 340 restricted (25.4.1991) by [Companies Act 1989 \(c.40\)](#), [ss. 182\(4\)](#), [Sch. 22 para. 8\(1\)\(b\)](#); S.I. 1991/878, [art. 2](#), [Sch.](#)  
 S. 340 restricted (11.12.1999) by S.I. 1999/2979, [reg. 17\(1\)](#)  
 S. 340 restricted (24.3.2003) by [2002 c. 29](#), [ss. 419\(1\)-\(4\)](#), 458(1)(3); S.I. 2003/333, [art. 2](#), [Sch.](#) (subject to [arts. 3-13](#) (as amended by S.I. 2003/531, [arts. 3, 4](#)))

**Changes to legislation:**

Insolvency Act 1986, Section 340 is up to date with all changes known to be in force on or before 09 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.

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