



Insolvency Act 1986

1986 CHAPTER 45

PART VI

MISCELLANEOUS PROVISIONS APPLYING TO COMPANIES WHICH ARE INSOLVENT OR IN LIQUIDATION

Adjustment of prior transactions (administration and liquidation)

238 Transactions at an undervalue (England and Wales).

- (1) This section applies in the case of a company where—
 - (a) an administration order is made in relation to the company, or
 - (b) the company goes into liquidation;and “the office-holder” means the administrator or the liquidator, as the case may be.
- (2) Where the company has at a relevant time (defined in section 240) entered into a transaction with any person at an undervalue, the office-holder may apply to the court for an order under this section.
- (3) Subject as follows, 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 the company had not entered into that transaction.
- (4) For the purposes of this section and section 241, a company enters into a transaction with a person at an undervalue if—
 - (a) the company makes a gift to that person or otherwise enters into a transaction with that person on terms that provide for the company to receive no consideration, or
 - (b) the company enters into a transaction with that person for a consideration the value of which, in money or money’s worth, is significantly less than the value, in money or money’s worth, of the consideration provided by the company.

Status: Point in time view as at 01/01/1993. This version of this provision has been superseded.

Changes to legislation: Insolvency Act 1986, Section 238 is up to date with all changes known to be in force on or before 01 May 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)

- (5) The court shall not make an order under this section in respect of a transaction at an undervalue if it is satisfied—
- (a) that the company which entered into the transaction did so in good faith and for the purpose of carrying on its business, and
 - (b) that at the time it did so there were reasonable grounds for believing that the transaction would benefit the company.

Modifications etc. (not altering text)

- C1** S. 238 excluded (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), **ss. 154, 155, 165(1)(a)**; S.I. 1991/878, **art. 2, Sch. .**
- C2** S. 238 restricted (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), s. 182(4), **Sch. 22 para. 8(1)(a)**; S.I. 1991/878, **art. 2, Sch.**
- S. 238 restricted (31.3.1996) by 1995 c. 20, s. 110(1), **Sch. 4 para. 3(5)(a)**; S.I. 1996/517, **art. 3(2)** (subject to transitional provisions and savings in arts. 4-6, **Sch. 2**) (which amending Act was itself repealed (1.4.1996) by 1995 c. 40, ss. 6(1), 7(2), **Sch. 5** (with **Sch. 3 paras. 3, 16**))
- S. 238 restricted (1.4.1996) by 1995 c. 43, ss. 44, 50(2), **Sch. 2 para. 3(5)**
- S. 238 restricted (11.12.1999) by S.I. 1999/2979, **reg. 17(1)(a)**
- S. 238 restricted (24.3.2003) by 2002 c. 29, ss. 427(1)-(5), 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))

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