



# 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)*

#### **239 Preferences (England and Wales).**

- (1) This section applies as does section 238.
- (2) Where the company has at a relevant time (defined in the next section) given a preference to any person, 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 given that preference.
- (4) For the purposes of this section and section 241, a company gives a preference to a person if—
  - (a) that person is one of the company's creditors or a surety or guarantor for any of the company's debts or other liabilities, and
  - (b) the company 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 company going into insolvent liquidation, will be better than the position he would have been in if that thing had not been done.
- (5) The court shall not make an order under this section in respect of a preference given to any person unless the company which gave the preference was influenced in deciding to give it by a desire to produce in relation to that person the effect mentioned in subsection (4)(b).

**Changes to legislation:** Insolvency Act 1986, Section 239 is up to date with all changes known to be in force on or before 10 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

- (6) A company which has given a preference to a person connected with the company (otherwise than by reason only of being its employee) at the time the preference was given 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 (5).
- (7) 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.

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

- C1** Pt. 6 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), reg. 2, **Sch. 1 para. 3** (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), 4)
- C2** S. 239 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. 239 restricted (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), s. 182(4), **Sch. 22 para. 8(1)(b)**; [S.I. 1991/878](#), art. 2, **Sch.** .  
 S. 239 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. 239 restricted (1.4.1996) by [1995 c. 43](#), ss. 44, 50(2), **Sch. 2 para. 3(5)**  
 S. 239 restricted (11.12.1999) by [S.I. 1999/2979](#), **reg. 17(1)(b)**  
 S. 239 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))
- C4** S. 239 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**)
- C5** S. 239 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), ss. 103, 263(1)(2) (with s. 247); [S.I. 2009/296](#), arts. 2, 3, **Sch. para. 2**
- C6** S. 239 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), ss. 145, 263(1)(2) (with s. 247); [S.I. 2009/296](#), arts. 2, 3, **Sch. para. 3**
- C7** S. 239 applied (with modifications) (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), Pt. 3reg. 1, **Sch. 2 paras. 3, 5 Table** (with reg. 24)
- C8** Ss. 238-241 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), **Sch. 3**; [S.I. 2018/1161](#), reg. 3(c)
- C9** Ss. 238-241 applied (with modifications) (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), **Sch. 4**; [S.I. 2018/1161](#), reg. 3(d)
- C10** S. 239 applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), regs. 2, **37** (with reg. 5) (as amended (4.1.2024) by [S.I. 2023/1399](#), regs. 1(2), 4, 11)
- C11** Ss. 238-241 applied (with modifications) (15.3.2024) by [The Water Industry \(Special Administration\) Regulations 2024 \(S.I. 2024/205\)](#), regs. 2(2), **5(1)** (with reg. 64)

**Changes to legislation:**

Insolvency Act 1986, Section 239 is up to date with all changes known to be in force on or before 10 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\(3\)\(b\)](#)