Insolvency Act 1986

1986 CHAPTER 45

PART XVI

PROVISIONS AGAINST DEBT AVOIDANCE (ENGLAND AND WALES ONLY)

423 Transactions defrauding creditors.

(1) This section relates to transactions entered into at an undervalue; and a person enters into such a transaction with another person if—

(a) he makes a gift to the other person or he otherwise enters into a transaction with the other on terms that provide for him to receive no consideration;

(b) he enters into a transaction with the other in consideration of marriage **[**[F1]or the formation of a civil partnership**]**; or

(c) he enters into a transaction with the other 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 himself.

(2) Where a person has entered into such a transaction, the court may, if satisfied under the next subsection, make such order as it thinks fit for—

(a) restoring the position to what it would have been if the transaction had not been entered into, and

(b) protecting the interests of persons who are victims of the transaction.

(3) In the case of a person entering into such a transaction, an order shall only be made if the court is satisfied that it was entered into by him for the purpose—

(a) of putting assets beyond the reach of a person who is making, or may at some time make, a claim against him, or

(b) of otherwise prejudicing the interests of such a person in relation to the claim which he is making or may make.

(4) In this section "the court" means the High Court or—

(a) if the person entering into the transaction is an individual, any other court which would have jurisdiction in relation to a bankruptcy petition relating to him;

Status: *Point in time view as at 05/12/2005. This version of this provision has been superseded.*
Changes to legislation: *Insolvency Act 1986, Section 423 is up to date with all changes known to be in force on or before 03 June 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)*

(b) if that person is a body capable of being wound up under Part IV or V of this Act, any other court having jurisdiction to wind it up.

(5) In relation to a transaction at an undervalue, references here and below to a victim of the transaction are to a person who is, or is capable of being, prejudiced by it; and in the following two sections the person entering into the transaction is referred to as "the debtor".

Textual Amendments

F1 Words in s. 423(1)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 121**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

Modifications etc. (not altering text)

C1 S. 423 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**
S. 423 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. 423 restricted by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), **s. 15(6)**(a)(7)
S. 423 restricted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), **ss. 30(6)**, 34(5)(a), 47(4)(a)
S. 423 restricted (25.4.1991) by Companies Act 1989 (c. 40), **s. 182(4) Sch. 22 para. 8(1)(c)**; S.I. 1991/878, art. 2, **Sch.**
S. 423 restricted by 1986 c. 32, **s. 15(6)(a)(b)** (as substituted (prosp.) by 1993 c. 36, **ss. 13(9)**, 78(3) (with s. 78(6) (which amending provision was repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**))
S. 423 restricted (3.2.1995) by 1994 c. 37, ss. 32(5)(a), 69(2), **Sch. 2 para. 5** (with s. 66(2))
S. 423 restricted (1.11.1995) by 1988 c. 33, **s. 84(6)(a)** (as substituted (1.11.1995) by 1995 c. 11, **s. 8(7)**; S.I. 1995/2650, **art. 2**)
S. 423 restricted (1.4.1996) by 1995 c. 43, ss. 44, 50(2), **Sch. 2 para. 2(5)**
S. 423 restricted (11.12.1999) by S.I. 1999/2979, **reg. 17(1)**
S. 423 restricted (24.3.2003) by 2002 c. 29, ss. 419(1)-(4), 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))

C3 S. 423 excluded (25.4.1991) by Companies Act 1989 (c. 40), **ss. 154**, 155, 165(1)(c); S.I. 1991/878, art. 2, **Sch.**

C4 S. 423 modified (3.2.1995) by 1994 c. 37, ss. 32(5)(a), 69(2), **Sch. 2 para. 5** (with s. 66(2))

C5 S. 423 amended (1.12.2001) by 2000 c. 8, **s. 375(1)**; S.I. 2001/3538, **art. 2**

C6 Ss. 423-425 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

C7 Ss. 423-425 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

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