

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;

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- (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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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](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 2 words substituted by [S.I. 2019/146 Sch. para. 45\(2\)](#) (This amendment is to 1986 c. 45, Pt. 2 as that Part had effect immediately before the coming into force of 2002 c. 40, s. 248 and in so far as it continues to have effect)
- s. 5A applied (with modifications) by S.I. 1994/2421, art. 16, Sch. 8 (as amended) by [S.I. 2017/1119 Sch. 2 para. 4](#)
- s. 12C applied (with modifications) by S.I. 1994/2421, art. 16, Sch. 8 (as amended) by [S.I. 2017/1119 Sch. 2 para. 4](#)
- s. 13-15C applied (with modifications) by S.I. 1994/2421, art. 16, Sch. 8 (as amended) by [S.I. 2017/1119 Sch. 2 para. 4](#)
- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)
- s. 210(2A)(2B) omitted by [S.I. 2019/146 Sch. para. 24\(3\)](#) (This S.I. is amended by S.I. 2019/1459, Sch. para. 2)
- s. 263I(1)(ab) inserted by [S.I. 2019/146 Sch. para. 31\(2\)\(a\)](#)
- s. 263I(5) inserted by [S.I. 2019/146 Sch. para. 31\(3\)](#)
- s. 265(1)(ab) inserted by [S.I. 2019/146 Sch. para. 33\(2\)\(a\)](#)
- s. 265(5) inserted by [S.I. 2019/146 Sch. para. 33\(3\)](#)
- s. 422A inserted by [S.I. 2019/146 Sch. para. 41](#)
- Sch. 6 para. 15D and cross-heading inserted by [2020 c. 14 s. 98\(2\)](#)
- Sch. 6 para. 15BB modified by [S.I. 2019/680 reg. 11\(3\)\(4\)\(6\)](#)
- Sch. 6 para. 15BB(a) words substituted by [S.I. 2018/1394 Sch. 2 para. 2\(a\)\(i\)](#)
- Sch. 6 para. 15BB(a) words substituted by [S.I. 2018/1394 Sch. 2 para. 2\(a\)\(ii\)](#)
- Sch. 6 para. 15BB(b) words substituted by [S.I. 2018/1394 Sch. 2 para. 2\(b\)](#)